

The Medieval Foundations of the Court of
Orphans: London and Wardship,
c.1250–c.1550

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DECLARATION OF AUTHORSHIP

I, Adele Louise Ryan Sykes, hereby declare that this thesis, and the work presented in it, is entirely my own and, where I have consulted the work of others, this is clearly stated.

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ABSTRACT

This thesis presents a study of urban wardship in the later medieval period. Within that, it aims to establish why London had a court of orphans, to understand where the institution originated from, and how it evolved into the early modern institution of that name.

London's medieval Letter Books provide rich detail of orphan matters and these have been previously mined by historians to produce numerous studies in relation to other themes. However, the material has never been studied systematically or chronologically, nor placed in the wider context of later medieval wardship. Understanding the origins of London's orphanage requires the addition of the wills of the city's husting court to the source material found in the Letter Books and the understanding that one cannot be studied without the other. Using these sources, the thesis challenges previous assumptions that there was an actual court of orphans in the later medieval period and demonstrates that, rather, Londoners took several centuries to evolve customs and ancient rights into the institution that was not even referred to by this name, in contemporary records, until 1529 and cannot be said to have come into existence, in its well-documented early modern form, before 1536.

Chapter 1 sets the scene by describing the workings and detailed procedure of the court of orphans as it was operating by the second half of the sixteenth century. Chapter 2 then goes back in time to the origins of London wardship, to describe how a complex combination of different legal systems and ancient customs resulted in a process that eventually emerged in the city's courts system. Chapter 3 explains the context of, and the problems inherent in, the source material. Chapters 4-7 deal with the long evolution of wardship practice with heavy emphasis on the fourteenth century: Chapter 4 takes up the narrative of development, beginning with the heavily common-law, property-influenced pre-Black Death years. Chapter 5 details the chaos of the post-plague years; discussing corruptive practices in civic

management and the networks of care underlying the civic processes that were adopted by Londoners for their orphaned children. Chapter 6 examines the backlash to that corruption in the wake of the 1376 Good Parliament, examining the city's awareness of the need to tighten control over its accountabilities. Chapter 7 evaluates the impact of these modifications on civic wardship practice and brings the narrative into the fifteenth century, examining the changes that put the city in a position, by the mid-sixteenth century, to establish a formal court of orphans. Chapter 8 then explores the consistent and critical role played by women over the centuries of civic change. Finally, Chapter 9 presents a reflection of the reasons why Londoners expended so much energy on their wardship rights.

The study concludes that late medieval London wardship was significantly different in comparative terms to both contemporary forms of (royal and rural) wardship and to its early modern self.

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Dedication

This thesis is dedicated to Mona and Jack,
my much-missed grandparents, who gave up five years of their retirement, so that I might
have an unbroken education when it mattered the most.

ABBREVIATIONS

(For full details of these works, see the bibliography)

Barron, <i>LLMA</i>	Barron, <i>London in the Later Middle Ages: Government and People</i>
Bateson	Bateson, <i>Borough Customs</i> , 2 vols
Beaven	Beaven, <i>Aldermen of the City of London</i>
Bohun	Bohun, <i>Privilegia Londini</i>
Bracton, <i>De Legibus</i>	Bracton: <i>De Legibus et Consuetudinibus Angliae</i> , 2 vols
Carlton	Carlton, <i>The Court of Orphans</i>
<i>CCR</i>	<i>Calendar of Close Rolls</i>
<i>CChR</i>	<i>Calendar of Charter Rolls</i>
<i>CEMCR</i>	<i>Calendar of Early Mayors Court Rolls</i>
<i>CIPM</i>	<i>Calendar of Inquisitions Post Mortem</i> . British History Online
<i>CLB [A-L]</i>	<i>Calendar of Letter Books [A-L]</i>
<i>CPMR</i>	<i>Calendar of Plea and Memoranda Rolls</i>
<i>CPR</i>	<i>Calendar of Patent Rolls</i>
<i>CWCH</i>	<i>Calendar of Wills in the Court of Husting</i> , 2 vols
GL	Guildhall Library
<i>Glanvill</i> ,	<i>The Treatise on the Laws and Customs of England commonly called Glanvill</i>
Jor.	Journals, Court of Common Council, 1416–63. Manuscript series in LMA
Keene and Harding, <i>Gazetteer</i>	<i>Historical Gazetteer of London Before the Great Fire</i> ed. Keene and Harding. British History Online
<i>Liber Albus</i> , ed. Riley	<i>Liber Albus</i> , ed., and trans. H.T. Riley, 1861
<i>Liber Albus</i> ,	<i>Liber Albus, Munimenta Gildhallae</i> , Rolls series edition
<i>Munimenta Gildhallae</i>	
LMA	London Metropolitan Archives
<i>London Eyre, 1244</i>	<i>The London Eyre of 1244</i> , ed. Chew and Weinbaum
<i>Memorials</i> , ed. Riley	<i>Memorials of London and London Life in the 13th, 14th and 15th Centuries</i> , ed. H. T. Riley
PCC	Prerogative Court of Canterbury

<i>PCC Logge</i>	<i>The Logge Register of PCC Wills</i> , ed. Boatwright, Habberjam and Hammond, 2 vols
Pollock and Maitland	Pollock and Maitland, <i>The History of English Law</i> , 2 vols
Stow, <i>Survey</i>	John Stow, <i>A Survey of London</i> , Kingsford edition, 2 vols
Thrupp	Thrupp, <i>The Merchant Class of Medieval London</i>
Tucker	Tucker, <i>Law Courts and Lawyers in the City of London</i>

AUTHOR'S NOTE

First names have been anglicised from the Latin originals.

All dates shown and used in analysis have been adjusted to a modern calendar, for example, any dates falling within the last quarter (January–March) of the medieval year 1348-49 will have been written, catalogued and analysed in data presentations as January–March 1349.

References in the *Calendars of Inquisition Post Mortem* volumes, are referred to by file and item number. They are referenced as follows: king, volume, file number [where used] and item number, i.e., Ed III, x. 152/635.

In diagram representation, unless impractical, green indicates data from a wills source and blue, from a civic source.

INTRODUCTION

There was no ‘Court of Orphans’ in medieval London.

It was not until 1536, that the London mayor and aldermen, in a meeting of the common council, declared that, from henceforth, every orphanage of the city would go through them and not through the executors of citizens’ wills.¹ From this point onwards the city government took on accountability for *every* fatherless child of a London citizen from the point of that father’s death, and the civil machinery surrounding orphan matters, which they had spent centuries refining, became the route by which *every* orphan case was administered and protected. Only then did the court of orphans really come into being, becoming the busy institution of the sixteenth and seventeenth centuries, awash with cases and records (and money) that Stow referred to, Bohun encapsulated in civic procedure and latterly, the historian Charles Carlton described thoroughly in 1974.²

This thesis argues that, until 1536, a court of orphans, as it operated in the early modern period, did not exist. There was ancient custom, there was a legal right encapsulated in common law, but this made for a piecemeal, often interventionist-only policy which took three centuries of change and evolution to evolve into a civic structure that could support the 1536 declaration. Before that point, the critical difference was this: prior to Henry VIII’s

¹ Orphanage is defined in this study by London’s medieval conditions; that is to say, the child’s father, a freeman of the city, had died. Mothers might, and often were, still living. COL/AD/01/015 (Letter Book P), f. 77r, 79r, 80v

² *John Stow: A Survey of London Written in the Year 1598*, ed. C.L. Kingston (Oxford, 1908) i. 271; William Bohun, *Privilegia Londini: Or, The Rights, Liberties, Privileges, Laws, and Customs of the City of London*, (London, 1723), 279–301; C. Carlton, *The Court of Orphans* (Leicester, 1974)

break with Rome, more than half of the business that would later pass through the sixteenth- and seventeenth- century court of orphans was processed and managed outside the administration of the city's mayor and aldermen, through the church courts and under canon law. It was only when Henry declared himself the head of the church in England, and thus of the ecclesiastical court structure, that guardianships ceased to be managed as a part of executor business and became, completely and wholly, a statutory part of civic administration.

This co-existence of testamentary guardianship with the recorded wardship practice in the civic records has rarely been discussed in academic work, and never in the context of the long development of London orphan matters.³ Charles Carlton, in his seminal study of the early modern court of orphans, allowed a ten-page chapter entitled 'Medieval Foundations' for the examination of its 240-year evolution. Within it, he established that there was wardship activity in London from as early as 1276. Wardship procedure was not, however, created in a vacuum and, although Carlton includes three paragraphs on theories for origins, he reaches no conclusions. On the evolution of the administration of orphan affairs in the city in the medieval period, he states that orphan business, and the procedures and offices responsible for the administration of wardship, remained constant from the early thirteenth century to the end of the fifteenth. He attests that only two minor changes occurred: the raising of the orphans' coming of age in the middle of the fifteenth century (for which this study has found no evidence) and the use of wardmote inquests to unearth local issues with

³ Caroline Barron and Claire Martin published an essay in 2011 which, for the first time, explored the gap in time between a citizen's death and their child's appearance in the civic records, concluding that many mothers were appointed guardians in their husband's wills and only came into court when they remarried. C. M. Barron and C.A. Martin, 'Mothers and Orphans in Fourteenth Century London' in *Motherhood, Religion and Society in Medieval Europe, 400-1400: Essays presented to Henrietta Leyser* ed. C. Leyser and L. Smith (Farnham, 2011), 281–96

minors.⁴ The 'Medieval Foundations' chapter is an admirable summary of 240 years of civic evidence, but it does not answer three key questions. Where did this practice come from? How did it evolve into the busy and heavily procedural early modern system? And why did London put so much effort into it when other English towns did not? This thesis will seek to redress the balance and answer those questions, forming a more detailed study of the medieval foundations and providing a 'prequel' to Carlton's work and other, later, studies of the city's orphan's court.

HISTORIOGRAPHY: CHILDHOOD AND WARDSHIP

In the aftermath of the debate sparked by Phillipe Aries' renowned assertion that children were looked upon as small adults once they passed infancy, much work has been done to suggest an alternative view.⁵ The 2007 volume of essays edited by Joel Rosenthal provides a useful historiography of the ensuing debate and presents studies ranging from the reality of childhood to its interpretation through medieval texts and canonical tenets.⁶ Historians such as Nicholas Orme and Barbara Hanawalt have conducted valuable research on the mechanics of all aspects of medieval childhood, from education and apprenticeship to manners, morality and marriage.⁷ Others, such as Shulamith Shahar and Jeremy Goldberg, have examined childhood in the context of gender and culture, and medieval parents'

⁴ Wardmote inquests are discussed in Chapter 7 but this study does not find their inclusion of orphan matters to be a definitive point of change.

⁵ P. Aries, *Centuries of Childhood* (Paris, 1960)

⁶ *Essays on Medieval Childhood: Responses to Recent Debates* ed. J Rosenthal. (Donington, 2007). See also, B. Hanawalt, 'Medievalists and the Study of Childhood,' *Speculum* 77 no.2 (2002), 440–60

⁷ N. Orme, *Medieval Children* (London, 2001); B. Hanawalt, *Growing Up in Medieval London: The Experience of Childhood in History* (Oxford, 1993)

material and emotional investment in their children.⁸ In the last decade, the development of children themselves, both emotionally and socially, through the impact of transitional household paradigms and the influences of (and expectations set by) vernacular household literature, has been the subject of studies by Meridee Bailey and Phillipa Maddern, and a valuable volume has been published from the perspective of material culture in Hadley and Hemer's edited edition of archaeological approaches to medieval childhood.⁹

Wardship was commonly practised during the middle ages, but until the late 1960s had rarely been a subject of scholarship outside of broad texts on feudalism. Elizabeth Kimball, in 1936, remarked upon the lack of such a "definitive study" and in the 1950s, the development of wardship as a royal prerogative was placed firmly in the Tudor period.¹⁰ Susan Sheridan Walker's seminal thesis on royal wardship in England in 1966, brought academic attention to the subject and she remains the authority for the period.¹¹ A legal perspective permeates Sheridan Walker's research which has contributed greatly to the understanding of common law wardship principles and their impact on feudal family life. Several core aspects of her research challenged established notions and provide the context

⁸ S. Shahar, *Childhood in the Middle Ages* (London, 1990); P.J.P. Goldberg, 'Childhood and Gender in Later Medieval England' *Viator*, 39 (2008) 249–62 and 'The Drowned Child: An Essay in Medieval Cultural History' *WerkstattGeschichte*, 63, (2013) 7–23

⁹ M.L. Bailey, *Socialising the Child in Late Medieval England* (York, 2012); P. Maddern, 'Between Households: Children in Blended and Transitional Households in Late-Medieval England', *Journal of the History of Childhood and Youth*, 31 (2010), 65–86 and 'How Children Were Supposed to Feel: How Children Felt: England 1350-1530' in *Childhood and Emotion Across Cultures 1450–1800*, ed. C. Jarzebowski and T.M. Safley (Routledge, Oxford and New York, 2014), 121–40; *Medieval Childhood: Archaeological Approaches* ed. D. Hadley and K. Hemer (Oxford, Philadelphia, 2014)

¹⁰ E. G. Kimball, *Serjeanty Tenure in Medieval England*, (Yale, 1936), 168; H. Bell, *An Introduction to the History and Records of the Court of Wards and Liveries* (Cambridge, 1953), 2

¹¹ S. Sheridan Walker, 'Royal Wardship in Medieval England' (Unpublished University of Chicago PhD Thesis, 1966)

for this study, namely: the separation of guardianship of lands from the guardianship of the body of an heir, the predominance of primogeniture and the consequences of a patrilineal or a matrilineal legacy (the marriage of the heir belonged to the seigneurial lord if the inheritance descended from the father, but to the crown if it descended from the mother); that the Church, in the twelfth century developed the 'ruling' that for a marriage to be valid, both parties had to consent. She has closely examined plea systems governing the protection of wardship rights within the common law system, established the legal parameters for governance within medieval crown courts and underlined the patrilineal nature of primogeniture within their systems.¹² In summary, her research has done much to accentuate the non-fiduciary, custodial and lucrative prerogatives of royal and seignorial wardship.¹³

Barbara Hanawalt and most recently, Miriam Muller, have taken this common law practice down a social level into the manorial courts and argued that, at the lower levels of rural society there existed a combination of common law wardship principles; those held under feudal (chivalric) terms and those held under the tenets of socage land tenure.¹⁴ Principally, their findings establish that, in inheritance practice, the chivalric practice of primogeniture was not absolute at manorial level. Some areas of rural England observed the partible

¹² S. Sheridan Walker, 'Free Consent and Marriage of Feudal Wards in Medieval England', *Journal of Medieval History*, 8 (1982), 123–34; S. Sheridan Walker, 'The Feudal Family and the Common Law Courts: The Pleas Protecting the Rights of Wardship and Marriage', *Journal of Medieval History*, 14 (1988), 13–31; S. Sheridan Walker, 'The Marrying of Feudal Wards in Medieval England', *Studies in History and Culture*, 4 no. 2 (1974), 209–24; S. Sheridan Walker, 'Widow and Ward: The Feudal Law of Child Custody in Medieval England', *Feminist Studies*, 3 no.4 (1976), 104–16

¹³ 'Fiduciary' is defined here in the legal sense: relating to the duty of acting in good faith with regard to the interests of another. The term is still employed in modern times for guardians of minors who are legally bound to act to the advantage of a beneficiary in conjunction with a testator's wishes.

¹⁴ These two common law principles operated concurrently in medieval England, but with a number of differences. These are defined and discussed in Chapter 2.

inheritance system found more commonly in urban centres; some favoured the eldest son, some the younger, and daughters inherited in the event of the absence of a male heir.¹⁵ The consistency that both Hanawalt and Muller have illustrated was that, at manorial level, there was a general desire to ensure that *all* children of a family were provided for out of the family's resources: land, property, chattels, capital or income.

While Hanawalt establishes the legal principles of rural inheritance, Muller, in her recent and informative study of manorial wardship and childhood, tackles the hitherto unexamined *practice* of wardship in the English medieval village. The complexities of coming of age are investigated and found to be dependent largely on the circumstance of the enquiry: twenty or twenty-one for land transfer to a male heir for example, but a boy was deemed old enough at twelve to be in the tithing.¹⁶ An examination of guardian choice reveals, where known, a preference for women, be they mothers of the children or the widows of the deceased land-holder. There is much emphasis on the importance of the communal life of the village in raising and socialising orphaned children in order to meet the expectations which adulthood placed upon them at the point of inheritance.¹⁷ Veering away from the non-fiduciary nature of royal or aristocratic wardship, she highlights the accountability inherent in rural village guardianship, illustrating the role played by the manorial court (and its officers) in overseeing the transition of inherited land and property to a ward on coming of age and, from the perspective of the heir, examines the evidence for grievances presented in the manorial courts at that stage of the wardship.

¹⁵ M. Muller, *Childhood, Orphans and Underage Heirs in Medieval Rural England: Growing Up in the Village* (Palgrave, 2019), 80; B. Hanawalt, *The Ties that Bound: Peasant Families in Medieval England* (New York, 1986), 142–4

¹⁶ Muller, *Childhood*, 59–64

¹⁷ Muller, *Childhood*, 130–40

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It has been suggested that borough law in England owes much of its practice to earlier continental law.¹⁸ Scholarship on continental wardship, particularly in the Low Countries, has illuminated sources that suggest an urban practice very similar to that examined in this study. Michael Galvin's work on the Poor Tables of medieval Bruges and Marianne Daneel's on widows and orphans in fifteenth-century Ghent use surviving *wezenregisters* or *scepenen van gedele* (orphan registers) and the *staet van goed* (inventories of goods) material and present a civic system of inheritance protection which London may well have drawn inspiration from, or developed concurrently.¹⁹ Certainly, the registers of wardships, inventories of inheritance and an orphans' fund of capital used in civic finances are all familiar concepts in London practice by the end of the fifteenth century, and the terminology of civic transactions concerning wardship management is remarkably close to that found in London's civic records.²⁰ As a point of contextual background to this study, Ellen Kittal, in 1998, examined this Low Countries practice in the context of urban patriarchies and

¹⁸ Bateson, ii. xix; W. G. Hart, 'Roman Law and the Custom of London' *Law Quarterly Review*, 46 (1930) 49–53

¹⁹ M. Danneel, 'Orphanhood and Marriage in Fifteenth Century Ghent' in *Marriage and Social Mobility in the Late Middle Ages/Marriage et mobilité sociale au bas moyen-âge* ed. W. Prevenier, (Ghent, 1992), 99–111. See also D. Nicholas, *The Domestic Life of a Medieval City: Women Children and the Family in Fourteenth Century Ghent* (Lincoln, 1985), 109–110

²⁰ Galvin, M. T., 'The Poor Tables of Bruges 1270–1477' (Ph.D. thesis, Columbia University 1998), 40 and fn. 29; 192–6. Even in medieval Florence it is known that there existed some form of civic register for orphan inheritances, although the lack of a dower, and the consequent pressure on young widows to marry again – and leave any children behind with the first husband's kin, negated any real cumulative effects of partible inheritance on urban wealth. G. Holmes, *Florence, Rome and the Origins of the Renaissance* (Oxford, 1986), 37–38: I am indebted to Christian Steer for this reference. B. Hanawalt, 'Weak Patrilinear Lines: Widows, Orphans and Corporations in Late Medieval London', *Quaderni Storici*, 89. no.2 (1994), 463–85; C. Klapisch-Zuber, 'The Cruel Mother: Widowhood and Dowry in Florence in the Fourteenth and Fifteenth Centuries', in *Women, Family, and Ritual in Renaissance Italy*, ed. C. Klapisch-Zuber (Chicago, 1987), 117–31

concluded, that civic patriarchy, at least in medieval Flanders, did not necessarily imply systematic male guardianship over women and their wealth.²¹

Finally, the subject of widows has received much attention in recent years. Although not all studies of widows are concerned with orphans, some scholarship presents significant context for this study. Widows in London have received particular attention, from the experiences of a broad social spectrum of collectives and individuals presented in the formative volume *Medieval London Widows*, to the more detailed analysis of the role of wealth in widowhood and remarriage, and the accompanying detailed case studies, in Anne Sutton's publication of her work in 2016.²² All of these studies provide a useful and clarifying context for the role played by the children of these marriages and remarriages in later medieval London. Sheridan Walker's edited volume of 1993 presents some examination of the prospects for widows: Joel Rosenthal's study illuminates the complexities of widows' reintegration into society and determines the relative popularity, amongst older peeresses without children to rear or uncertain futures to navigate, for remaining unmarried. James Brundage's study presents an assessment of the medieval ecclesiastical ambivalence concerning a widow's remarriage, and the conflict between the realities of survival (or the temptation of advancement and opportunity) and the Church's desire for moral propriety. In her examination of re-marriage as an option for rural and urban widows, Barbara Hanawalt touches on this discrepancy between moralist's advice to widows and the evidence for remarriage in London and Bedfordshire. She presents a particularly notable assessment of the remarriage of widowed mothers of orphans, drawing the conclusion that 57% of widowed mothers recorded in the city Letter Books were

²¹ E. Kittall, 'Guardianship over Women in Medieval Flanders: A Reappraisal' *Journal of Social History*, 31 (1998), 897-930

²² *Medieval London Widows, 1300-1500* ed. C. M. Barron, C., and A. Sutton (London, 1994); A. Sutton, *Wives and Widows of Medieval London* (Donington, 2016)

already remarried upon their appearance before the mayor and aldermen, a much higher percentage than those who appeared as plaintiffs in dower suits, presenting the possibility that widows with underage children remarried more often.²³ Hanawalt takes this research much further in 'Wealth of Widows' where she assesses women's economic and social role in medieval London.²⁴ This discussion places women, and particularly widows, in an important position as 'conduits of capital', suggesting that London's unique laws of inheritance and dower presented opportunities for smart young women to become dealers in social capital and the marriage market, turning both to their social and economic advantage.

METHODOLOGY AND SOURCES

Surviving sources are, of course, key to any historical study and for wardship, London's are particularly rich. For the city's orphans an enticingly 'complete' set of civic records remains to us in the city's Letter Books. Chronologically, this is so. Letter Book A to Letter Book L, covering the period 1276 to 1498 survive as complete manuscripts and were published in the nineteenth century in calendared form. Within these annals lies the business of the city's court of aldermen with some overflow transactions from the mayor's and husting courts early on: merchant law decrees and decisions, ordinances, oaths, administrative change, civic business with the crown, levies, some apprenticeship regulations – and a

²³ J. Rosenthal, 'Fifteenth Century Widows and Widowhood: Bereavement, Reintegration and Life Choices' in *Wife and Widow in Medieval England* ed. S. Sheridan Walker (Michigan, 1993), 33–58; J. Brundage, 'Widows and Remarriage; Moral Conflicts and their Resolution in Classical Canon Law' in *Wife and Widow*, ed. Sheridan Walker, 17–31; B. Hanawalt, 'Remarriage as an Option for Urban and Rural Widows in Late Medieval England' in *Wife and Widow*, ed. Sheridan Walker, 141–64, especially, 151

²⁴ B. Hanawalt, *The Wealth of Widows: Women, Law and Economy in Late Medieval London* (Oxford, 2007)

proportionally large and consistently spread amount of orphan administration. This latter is unbroken from the very first entry in 1276 to the last at the end of Letter Book L. City orphans are named, can be counted, catalogued with father's names and trades and linked to guardians. In some instances, the records even give us the child's age at a given point in time.

This has rightly proved an irresistible source for modern day medievalists and numerous formative studies have resulted. P. E. Jones was the first to publish a precis of the legal machinery of London's court of orphans in 1943, followed more thoroughly by Carlton's 1974 seminal work.²⁵ Sylvia Thrupp, Caroline Barron, Barbara Hanawalt, Barbara Megson and Elaine Clarke have all mastered and mined the Letter Books' rich seam of orphan evidence: Thrupp used the material extensively in her as-yet unsurpassed work on the merchant class of London; Barron in her assessment of the value of London children from the perspective of orphan material and the coroner's rolls; Megson in an evaluation of medieval urban life-expectancy, and Clarke in her critical explanation of the workings of child custody and medieval city courts (a study which comes close to an assessment of wardship practice, although non-linear and only from a civic government perspective.)²⁶ Muller's focus on the 'agency of young people' and how they were socialised into the expectations placed upon them in manorial society finds an urban comparison in Hanawalt's social examination of urban childhood, narrated through 'composite experiences' of growing

²⁵ P.E. Jones, 'The Court of Orphans', *The Law Journal*, 93 (1943), 357–58; Carlton, *Court of Orphans*

²⁶ S. Thrupp, *The Merchant Class of Medieval London 1300–1500* (Anne Arbor, 1948); C.M Barron, 'The Child in Medieval London' in *Essays on Medieval Childhood* ed. J.T. Rosenthal (Donington, 2007), 40–53 and B. Hanawalt, *Growing Up in Medieval London: The Experience of Childhood in History* (Oxford, 1993); B. Megson, 'Life Expectations of the Widows and Orphans of Freemen in London, 1375–1399', *Local Population Studies*, 57 (1996), 18–29; Clarke, E., 'City Orphans and Custody Laws in Medieval England', *American Journal of Legal History*, 34 (1990), 168–87

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up in medieval London; Phillipa Maddern and Stephanie Tarbin, though, have taken (and Caroline Barron latterly considered) a less accepting view of the completeness of the Letter Book orphan material and warned of the dangers of its use as a tool to assess change over time, or its value as a sole source.²⁷

TABLE 0.1: SOURCES AND DEFINITIONS USED IN STATISTICAL ANALYSIS:

				Orphan Records Identified		
Samples	Source	Dates		No. of families	No. of orphans	No. of transactions
Sample 1	The Civic Records	Calendar of Letter Books A–L, 11 vols	1275–1478	1186	2033	2807
		Calendar of Early Mayor's Court Rolls	1298–1307			
		Calendar of Plea and Memoranda Rolls, 6 vols.	1323–1482			
		The Journals i–iv [orphans identified from C. M. Barron's card index]	1416–1463			
Sample 2	The Husting Wills	Calendar of Wills in the Court of Hustings, 2 vols.	1258–1498	702*	1458	895
Sample 3	PCC Wills	London citizens in the Logge Register of PCC Wills	1479–1486	36**	67	51
TOTALS:				1924	3558	3753

*895 families with wardships are recorded in total in the Hustings wills: 193 also appear in the Letter Books and are counted in sample 1.

**51 families with wardships are recorded in total in the London Logge Register wills. 15 also appear in the Letter Books and are counted in sample 1.

Definitions:

Families:	Count is by deceased parent, i.e., all the children of one parent at the first appearance in the civic records (subsequent transactions are not included in this statistic). This is necessary to compare wills to civic records. (Wills are always by family whereas civic records are by child/by transaction.)
Orphans	Count is by individual child at first appearance in civic records.
Transactions	Count is by each transaction, i.e., the recording of a single orphan's wardship plus the recording of his coming of age, etc.

After the collation and preliminary examination of references to orphan matters in the civic records for this study, the warnings of Barron, Maddern and Tarbin rang true. Table 0.1 presents the statistical categories, definitions and count of orphan instances catalogued and

²⁷ Barron and Martin, 'Mothers and Orphans', 281–96; P. Maddern, 'Between Households'; S. Tarbin, 'Caring for Poor and Fatherless Children in London c. 1350–1550' *Journal of the History of Childhood and Youth*, 3, no.3 (2010), 391–410

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used in this thesis. An immediate discrepancy presented itself: London, it was claimed by contemporaries and historians alike, had the right to the guardianship of *all* the fatherless children of its citizens. Even considering the complexities of proportional demographic mathematics, 2,033 orphan children recorded in the civic records over 222 years, equating to just 1,186 families, seemed disproportionately low in a city with an estimated pre-plague population of around 80,000 and a post-plague one of around 40,000.²⁸ These could not possibly be *all* the children of *all* the deceased citizens over that timeframe.²⁹

This presented the possibility that the civic records, chronologically unbroken although they might be, are not as thorough as assumed. This study concluded early on that they are, in fact, neither complete (in that every orphan has a continuous set of transactions throughout minority) nor whole (in that every underage child of a deceased London citizen has a civic entry). That raised more questions: were a significant number of children then missing from this process? If so, why and who were they? Was there a pattern and therefore an explanation for these omissions? By the early modern period, *all* orphaned children of London's citizens were captured under the procedure of an established court of orphans; it is easy to project backwards and to assume that the same occurred in the proceeding centuries. In this study however, there now appeared a disconnect between the earliest records of wardship in London and the established institution operating in the sixteenth century. Why was that so and how did orphanage move from one state of affairs to the other? In order to begin to answer these questions, it became necessary to understand where London's wardship rights, and the oft quoted 'ancient custom', originated. Why did London operate this prerogative and why did the city maintain it so assiduously in the face

²⁸ Carlton, 33; Thrupp, 41-52; Barron, *LLMA*, 45

²⁹ The base civic records of individual wardships and transactions were catalogued primarily from the Letter Books with any additional cases in the records of the mayor's court added to the database.

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of so much social, economic, demographic and cultural change in the course of the fourteenth and fifteenth centuries? As more questions presented themselves, so the issues to be examined in this thesis began to emerge.

The 2,807 transactions of orphan matters in the calendared civic records (spanning the years 1276–1498) were catalogued into a searchable database with all relevant information: dates, nature of the entry, the father, the guardian, the guardians' sureties, inheritance details, the child's age (where given or determinable), cross reference to subsequent entries and, as changes in capturing procedure began to emerge, the details of the calendared record's terminology. This provided a source base of 2,033 orphans of 1,186 families. However, these alone were not going to provide an answer to the questions above. As the study progressed, an understanding of the legal origins of London's wardship practice and its emergence from the business of the husting court in the thirteenth century, led to the realisation that the first (and many subsequent) wardships were not, in fact, a result of civic administration and recording, but originated in wills enrolled in that court. Consequently, the entire sample of 3,647 husting wills enrolled between 1258 and 1498, as calendared by Reginald Sharpe, was catalogued as an additional source-base for the study, pulling the timeframe forward by 18 years, yielding a further 1,458 orphans and allowing cross-analysis between civic and testamentary material.³⁰ Londoners' use of the husting court for the enrolment of wills, however, tailed off significantly by the early fifteenth century, in

³⁰ All 3,647 wills were electronically catalogued with details of proved and enrolled dates, testator's name and trade (where given), spouse's name, mentioned children (with names where given), specifically noted underage children (with names, where given) and details of any guardianship appointment (including relationship to the child and notes on specific requirements). Sharpe's cataloguing was sample tested to establish its continuity of content. The testing showed that he regularly named widows and children (including underage children) and referenced guardianships but omitted the names of executors/witnesses.

favour of the Prerogative Court of Canterbury. The third source; the 104 wills of London citizens enrolled in the *Logge* Register of the PCC between 1479 and 1486 was thus used to test the changing nature of the fifteenth-century civic records and provide a more balanced view of guardianships in fifteenth-century wills and testaments. The combination of all three sources yielded the 3,558 children in wardship (1,924 families) shown in Table 0.1

This thesis uses source material to present two views. First, the evidence of the court of aldermen and the mayor's court, and any statistical analysis of citizens' wills, show the values inherent in recording orphanage matters and the changing nature of the city's, and citizens', practice. In these sources it is possible to see learning and evolution, responses to the impact of outside influences, such as the plague and the economy, and the impact of people; individuals such as Ralph Strode and John Carpenter and the collective that was the governing elite and the emerging administrative bureaucracy. The civic transactions for orphan matters are, by necessity, rather dry administrative recordings and give little background for the child or the family; little sense of place, connection or even outcome, especially in the fifteenth century when transactions in the Letter Books become particularly formulaic. There is much more diverse detail in the fourteenth-century civic and will sources, and much greater evidence of change. Consequently, this thesis devotes two chapters to the immediate post plague-period where this detail makes it possible to explore orphan matters more deeply than in the fifteenth century. Even so, to view wardship through these sources alone, is to see it through the lens of the civic government and what its governors *chose* to record.

It thus became clear, that to relate this narrative from the civic perspective alone would be to present a skewed picture and additional source material would be needed to contextualise it as much as possible from the viewpoint of the people involved: the orphans themselves, their guardians and carers, their parents and families, their neighbours and

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fellow parishioners. This is rather harder to do. Evidence from supplementary sources, royal records (inquisitions post mortem and close rolls), additional civic records (the husting roll property deeds and pleas and the assizes of nuisance and novel disseisin) and ecclesiastical records (archdeaconry court wills and commissary court wills) has therefore also been used to shed light in corners left dark by the civic material, and helps to present a clearer understanding of the *whole* process of guardianship in the city. In addition, to examine detail more acutely, this work has used a number of fourteenth-century case studies to establish the context of place, connectivity and strategy. The first case study examines wardship in one parish, St Christopher le Stokkes in the heart of the city; the second, in one guild, the Fishmongers, in the period after the Black Death, and the third, through the work of one particularly influential individual. Ralph Strode, the common sergeant of the city between 1374 and 1382, whose singular involvement in orphan affairs surpasses all other individual city officials in the period covered by this thesis.

The purpose of this thesis, then, is to explore, and expand, Carlton's 'medieval foundations' of London's court of orphans. To seek to address the following questions: where did the practice come from; how different was it in the later medieval period from the early modern and how influential was the pre-reformation concept of testamentary guardianship; how did it evolve into the early modern institution; what factors impacted and shaped its development, and why was it so important to the city?

Chapter 1 sets the scene by describing the 'endpoint': the workings and detailed procedure of the court of orphans as it was operating in the sixteenth century. This establishes and acknowledges the work of scholars on the early modern institution while providing a point of comparison for the narrative of this thesis. Chapter 2 then goes back in time to the origins of London wardship, to describe how a complex combination of different legal systems and ancient customs resulted in a process that eventually emerged in the city's courts system.

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Chapters 3 to 8 deal with the long evolution of wardship practice over the 240-year period, with heavy emphasis on the fourteenth century: Chapter 3 acts as a prologue to this evolutionary story and explains the context of (and the problems inherent in) the source material. Chapter 4 then takes up the narrative of development, beginning with the heavily common-law, property-influenced pre-Black Death years. Chapter 5 details the chaos of the plague years; how Londoners came together to protect children and their inheritances with altruistic networks of care as civic procedure floundered, and how corrupt practice at the highest-level plunged London's custom of wardship to its lowest level. Chapter 6 discusses the backlash to that corruption in the wake of the 1376 Good Parliament, examining the city's awareness of the need to tighten control over its accountabilities, using a detailed analysis of the cases and *modus operandi* of the then common sergeant, Ralph Strode. Chapter 7 then evaluates the impact of these changes on civic wardship practice and brings the narrative into the fifteenth century, exploring the impact on orphan matters of the rise of civic bureaucracy and the evolution of the legal and administrative practice, and the changes that put the mayor and aldermen in a position, in the early sixteenth century, to take control of all city orphanage matters. Chapter 8 pays homage to the consistent and critical role played by women over the three centuries of study. Finally, a conclusive chapter examines the motives behind the development of orphan practice and Chapter 9 presents a reflection of the reasons why London paid so much attention to this aspect of civic government throughout the later medieval period.

1. LONDON'S EARLY MODERN COURT OF ORPHANS

To analyse the extent of the development of wardship practice from the thirteenth century to the start of the Reformation, it is necessary first to understand the fully evolved system that was operating in London during the early modern period.¹

By the mid-sixteenth century, orphan business in London was an intensively administered (and an assiduously and prolifically recorded) part of civic government with a detailed step-by-step procedure. In his 1723 *Privilegia Londini*, William Bohun devotes a chapter to 'The Court of Orphans' describing the basis of the city's rights (ancient custom from time immemorial) and, in great detail, the process undertaken by the city to manage them.

As well as the ecclesiastically administrative implications of the break with Rome, a further early sixteenth century driver for change into a formalised court of orphans appeared to be a population surge; swelling numbers made an unofficial mechanism inadequate. Although it was not until 1536 that the mayor and aldermen decreed that all orphanages must henceforth pass through their administration, sixteen years earlier, they had made an attempt to begin to understand the actual numbers of citizens' heirs at large in the city at any given time. In 1520, the court of aldermen had instructed the constables of the wards to notify them monthly of all the freemen who had died leaving minors.² This provided a

¹ I am indebted to Dr Michael Scott for answering questions on Bohun's summary, and for his particular insight into the detailed workings of the early modern court of orphans, taken from a discussion, in November 2019, about his research of the same in the period 1620–45. The description of procedure in this chapter is taken from Bohun, *Privilegia Londini*, supplemented by commentary from Dr Scott, unless otherwise noted. Bohun, 279–301

² In 1546, they charged the company of parish clerks with doing the same. Carlton, 34

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starting point for the procedure that would be organised wholly through the civic administration from 1536.

By the later sixteenth century, this periodic notification of a citizen's death was reported to the common crier (within the office of the common sergeant) and had been established as the starting point of a wardship.³ It was the role of this office to initially summon the widow and executors to appear before the 'court of orphans' and be bound to bring in an inventory of the testator's estate.⁴ Two months was allowed for this. In the event of a refusal, the mayor could send warrant and force an appearance and, if necessary, imprison the offending executor in Newgate. Before the court, the widow and executors would sign a bond to provide an inventory of the orphan's portion and any legacy.⁵ At this point an administrative credit check would be made on the widow and executors to ensure the ability to provide a sum for the bond and the common crier, acting under the office of the common sergeant, would take on the responsibility for collecting the inventories. Once collated, these had to be fully appraised by four freemen, selected by the executors to

³ The common crier appears to have been a subordinate of the common sergeant by Bohun's time of writing. He received a fee of 10s for every inventory compiled and 10s per day for his attendance at appraisal. Bohun, 290–1. See also the common sergeant and common crier responsibilities in J. Noorthouck, *A New History of London Including Westminster and Southwark* (London, 1773) *British History Online*, 533–41 and Barron, *LLMA*, 190–1, 366

⁴ Although it had its own clerk, the most junior of the civic clerical offices, the court of orphans was not a physical bureaucratic entity. Rather, by this time, it was a specific, and regular, sub-meeting of the court of aldermen, in a small room in the Guildhall, established to deal purely with wardship matters. In a description of the Guildhall in 1773, the 'court of orphans' meeting place is physically located on the west side of the mayor's court office in the mezzanine of the Great Hall. Noorthouck, *New History of London*, 587–93. Bohun, 289

⁵ By the sixteenth century, 'orphan's portion' was the term applied to the one-third of a freeman's estate which, under the practice of *Legitim*, must descend to his children upon his death. The legacy would be made up of inherited property, land, or any other devised inheritance a child may have received. This is defined further and discussed in chapter one.

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evaluate the estate on their behalf, and by the common crier who then applied his signature as a civic attestation. The common crier, the executors and the four freemen were then required to appear before a Justice of the Peace in the city to swear to the verity of the inventory.⁶ Only at this point did documentation of the value of the estate pass to the common sergeant. He, or his clerks, made a copy for the executors and signed the original.

Once the value of the portion and legacy was established, guardians and custodians would be appointed. Although the terminology was sometimes interchangeable, 'guardians' were generally given responsibility for the child and his/her maintenance and education while 'custodians' took on financial responsibility for the portion and legacy.⁷ Both had to provide guarantors. Sureties were found for a guardian: individuals who would swear under oath that they would take on responsibility for a child if a guardian died. Custodians had to provide obligators: men of standing, often from outside the city, who would stand as a financial guarantor for the capital sum of the portion and the value of the legacy.⁸ These obligators were granted a monetary share of the inheritance in its whole state and it was they who were obligated to provide an annual finding fee: a percentage of profit, determined by the court and fed back to the guardian for the maintenance and education of the child.⁹ In most cases, not all of the orphan's portion and legacy went into the hands of custodians. Generally, some part (and occasionally the whole) was transferred into the city chamber to be managed by the chamberlain on behalf of the child until coming of age. This became part

⁶ London had four Justices of the Peace, all aldermen, from 1443 onwards. See Chapter 7.

⁷ A guardian and custodian could, however, be one and the same.

⁸ The difference between a surety and an obligator appears to be in the financial definition of the latter. The purpose of guarantor was the same; the former swearing under oath, while the latter under-wrote by means of a financial bond.

⁹ The Finding Fee was not introduced until 1532 when a series of tables were drawn up. These were determined by the value of the orphan's portion. Carlton, 36

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of a melting pot of city funds and, while generating interest, was typically not as much as that returned by the custodian and obligators.¹⁰

The executors, guardians and/or custodians appeared again before the court of aldermen to swear that the inventory was 'true and good' and to bind themselves 'in a considerable penalty' to either bring in the value of the orphan's portion to the chamber within two months, or to pay the same to the chamberlain when the orphan(s) should come of age.

The 'contracts' were recorded as recognisances: these were details of the financial bond given against the value of the portion and legacy, with the signatures of all parties. Every year, those responsible for the inheritance and the child were mandated to come before the court and report on the state of the wardship and inheritance. If the child died, then detailed proof was required and the court would formally transfer the portion to any surviving children, or, in the event of there being none, back to the widow. If the child came of age, then proof of the 'satisfaction' of the recognisance was recorded via a rendered account, and all parties would collectively sign for the transfer of the inheritance to the young adult.

The records of these transactions are exceptionally detailed and assiduous. Recognisances are recorded in the records of the court of aldermen and the Repertories manuscripts are substantially weighted with these meticulous transactions.¹¹ Details were recorded, orphan by orphan, of the fulfilling of the recognisance contract from its inception, through its annual review to its conclusion by death or coming of age. At each stage the signatures of the

¹⁰ The mismanagement of this central fund in the late seventeenth century led to a 1694 Act of Parliament. 'William and Mary, 1694: An Act for Relief of the Orphans and other Creditors of the City of London' in *Statutes of the Realm: Volume 6, 1685–94*, ed J. Raithby (Great Britain Record Commission, 1819), 464–70

¹¹ The Letter Books of the early sixteenth century (M, N, O and P) almost entirely dealt with these recognisances and the administrative details of orphan cases. For a full definition of the later Repertories and other London civic records, see Chapter 3.

1. The Early Modern Court of Orphans

widow, executors, guardian, custodian, sureties, obligators and, in the event of a coming of age and satisfaction, the orphans themselves, were captured. Interspersed with the more judicial records of the state of the recognisance are the clerical minutiae, sometimes captured alongside recognisance transactions, sometimes in the records of the more administrative common council.¹² The replacement of deceased sureties might be recorded, the re-marriage of widows, the sale of properties, approval of marriage requests, petitions from orphans or guardians for more finding fee contributions or the commissioning of intensely detailed reports into the nature of portion and legacy management. By this time, the sheer number of references to orphan matters across civic accounts reveals a city officialdom which was heavily invested in the administration of its wardship custom.¹³

This thesis argues that the bureaucratic procedure, intensive record keeping and civic micro-management of the early modern court of orphans did not exist to the same extent in the medieval period. Rather, civic involvement developed, very slowly, from that oft declared but elusive ‘ancient custom’ and was shaped by circumstances into the efficient office of the

¹² Recognisances formed a legal debt which came under the jurisdiction of common-law. The mayor and aldermen had long separated these more judicial responsibilities, and recordings, from day-to-day civic administration. See Chapter 7.

¹³ Although the detail and volume of orphan matters in the Repertories no doubt reflects the substantially increased detail of process and integrity of civic record-keeping, the population explosion of the later sixteenth century certainly contributed to the explosion of transactions. For example, Michael Scott has recorded more than 4,500 orphans in the city records for the 25-year period, 1620–45, compared with the 2,033 catalogued by this study over 240 years. Similarly, the chamberlain’s accounts of 1584–5 recorded a city debt to orphans (i.e., a record of what orphan’s portion money was out on loan) as £5,493 17s 10d. By 1633, this had swollen to £179,300. *Chamber Accounts for the Sixteenth Century*, ed. B. R. Masters (London Records Society, 1984), xxxi–ii. See also, V. Harding ‘The Crown, the City and the Orphans: The City of London and its Finances, 1400–1700’ in *Urban Public Debts, Urban Government and the Market for Annuities in Western Europe (14th–18th centuries)*, ed. M. Boone, K. Davids, and P. Janssens (Studies in European Urban History 3, Turnhout, 2003), 59

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early sixteenth century. An examination of this development forms the bulk of the narrative of this study.

Now, having established the early modern conclusion, it is only right to return to the very beginning.

2. LAW AND CUSTOM

For anyone searching for the origins of London's court of orphans, the first challenge is to find a starting point: a definitive place in time when the city was granted the rights it frequently claimed to have held since 'time immemorial', with a neat, clear-cut definition of what those rights were, and the inherent responsibilities associated with them. This does not exist.

There was no one point of creation for London's wardship procedure. In other cities and boroughs, wardship rights, very probably copying London's evolving model, seem to have been granted as a part of city charters.¹ In London itself, this was not how wardship rights originated: in the first chapter of his *Privilegia Londini*, Bohun paraphrases all the city's charters from William the Conqueror.² Nowhere in this summary of grants and privileges is there specific reference to the rights of guardianship being granted to the city before the earliest recorded court material in 1276.³ William the Conqueror perhaps came the closest when he stated 'I promise that every child shall be his father's heir after his father's day' in

¹ Bristol, 1188; Bury by 1327; Torksey, by 1345 and Dover at some point in the fifteenth century. Dunwich, Pembroke and Fordwich all had borough confirmations of burgess inheritance practice by the mid-fourteenth century. *Borough Customs*, ed. M. Bateson, 2 vols (Selden Society 18 and 21, 1904, 1906), i. 146–7. Carlton states that, while Faversham and Exeter both had confirmed rights to civic wardship by the early fourteenth and early fifteenth centuries respectively, civic wardship did not flourish in practice until the sixteenth century. Carlton, 28–33

² Bohun, 3–35; *Liber Albus*, 115–53

³ Bohun references the legal inception of London wardship from the Act of Parliament of 1377 in which Richard II, at the request of the city, confirmed its orphan rights. This was, however, a ratification of a process already notably in operation by this time. See Chapter 6.

his charter of 1067.⁴ The fact that other cities were emulating London's precedent does give some clue as to London's unrecorded early interpretation of these privileges in the twelfth and early thirteenth centuries.⁵ Bristol's charter of 1188 clearly defined the wardship rights for burgesses who held land outside of the city (external lords were not to have the wardship and marriage of the burgess's children but could have the wardship of any tenements held in fee from them).⁶ This suggests that London was probably already exercising the same principles. More significantly, however, Bristol's policy had evolved by around 1240 when another charter declared that

the mayor shall have...cognisance of causes which are wont to belong to his jurisdiction, as cases concerning the goods or wardship of orphans, where the next kinsmen do not appear to claim it, or where contention arises about their wardship.⁷

At about the same time, London made the first recorded declaration of its own concerning its wardship policy. This proved to be of great significance. It originated not in a request to the king over rights, nor from incorporation in a charter, but from an incidence of disputed

⁴ *English Historical Documents II, 1042–1189* ed. D.C. Douglas and G.W. Greenway (1953), 945. Early London charters do however grant and confirm the right to 'devise lands in London' and that 'the citizens have right to their lands and tenures according to the ancient custom of the city.' Bohun, 10, 12; *Historical Charters and Constitutional Documents of the City of London* ed. W. De Gray Birch (London, 1887), 1, 5, 11, 29, 40

⁵ The thirteenth century in particular saw much legislation on common law wardship. Bateson, i. 145–146

⁶ Bristol was the only known English city outside London to have held some form of systematic orphan records in the later medieval period. These survive in the form of books of burgesses' wills and recognizances. The earliest surviving will in the Great Orphan Book dates from 1381, but recognizances (recorded appearances before the mayor in the guildhall to acknowledge guardianship of minors) date from 1334. The process appears to be much the same as London's if not quite as profuse. *The Great Orphan Book and Book of Wills*, ed. T.P. Wadley (Bristol, 1886), 2

⁷ *Orphan Book*, ed. Wadley, 146

guardianship raised during the judicial Eyre of 1244, once again suggesting that this was a practice that had been in operation for some time. The case brought before the king's justices involved the abduction of the child William FitzWilliam from his guardians, Joce and Cristina LeSpicer, in 1241. William's father had devised the guardianship of the boy to Joce Le Spicer along with an inheritance of 6 marks and 4 shillings worth of rent from property in the city of London, to be used to the profitable advantage of William until he came of age.⁸ In response to questions from the king's judges about how testamentary guardianship worked and to whom, after the death of a parent, the protection of a child should belong, London's mayor and citizens answered that

— any citizen was free to leave by will to anyone he chose the guardianship of his child, with his goods and inheritance, the guardian being bound to apply to the use and advantage of the child all the proceeds of the same until he came of age. If, however, he made no such devise and the inheritance came from the father's side, the mother or the next of kin on the mother's side were entitled to the guardianship, with all the goods, in the form aforesaid. If the inheritance came from the mother's side, then the next of kin on the father's side was entitled to the guardianship in the form aforesaid, the guardians being bound to answer to the heir when he attained his majority, for all the issues of his inheritance.⁹

There is much in these two statements that requires definition and explanation: the fundamental importance of the mayoral jurisdiction; the importance of an inheritance's

⁸ The Provisions of Westminster [1259] cc (21-22) and the Statute of Marlborough [1267] converted the profitable rights of a guardian in socage into a trust to be exercised for the infant's benefit. *Statutes of the Realm, 1101-1713*, 11 vols, ed. J. Raithby et al., (London, 1963 reprint) i. 3, 24 'Profitable advantage' therefore meant that the guardian might use the inheritance to trade with while allowing maintenance for the orphan from the capital held in trust. Any profits would be shared with the orphan upon coming of age.

⁹ Appeal no.184 in *The London Eyre of 1244*, ed. H. M. Chew and M. Weinbaum (London Record Society, 1970), 72-80

patrilineal or matrilineal descent; differentiation between 'goods' and 'wardship' and the conditions upon which medieval mayors involved themselves in orphan matters. To understand these declarations is to understand the legal tenets and custom behind London's ancient rights.

2.1 WARDSHIP AND MEDIEVAL LAW SYSTEMS

Wardship in English law has never been a straightforward matter. Different legal systems have governed and defined it, historians have attempted to interpret it, antiquarian writers to review it until, writing in the late nineteenth century, one legal writer was able to pull together, and list, thirteen types of guardianship legally recognised in England.¹⁰

It is unsurprising then that the legal origins of London's court of orphans are complex. One constant that has long been argued by historians, and Londoners themselves, is that the mayor and aldermen had held the rights, 'since time immemorial', to the wardship and

¹⁰ A. Simpson, *A Treatise on the Law and Practice Relating to Infants* (London, 1890), 207. Wardship is rarely covered specifically but is usually referenced in conjunction with the law system governing it. One exception is the short and succinct overview of wardship in all its variations provided by Noel James Menuge in *Women and Gender in Medieval Europe: An Encyclopaedia* ed. M Schaus (London, 1949), 829. See also F. Pollock and F.W. Maitland, *The History of English Law before the Time of Edward I*, 2 vols (Cambridge, 1911), ii. 458–69

For Roman (civil) law on guardianship see R. Helmholz, 'Roman Law of Guardianship in England, 1300–1600' *Tulane Law Review*, 52 (1978), 223–57; T.F.T. Plucknett, 'The Relationships between Roman Law and English Common Law Down to the Sixteenth Century' *University of Toronto Law Journal*, 3 (1939), 24–50 and C.P. Sherman 'The Romanization of English Law' *Yale Law Journal*, 23 (1914), 318–29

For the embodiment of wardship in early medieval legal practice, see Glanvill, and Bracton, *De Legibus*. For statutory laws governing wardship see especially the Provisions of Merton [1235–6] c. 6 for the enshrined principles of guardianship in chivalry and the Statute of Marlborough especially c.17, for the obligations of guardians in socage. Raithby, *Statutes of the Realm*, i. 3, 24. See also Pollock and Maitland, ii. 466

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marriage of the children of the city's deceased citizens and could appoint their guardians.

This is true, but only to a point.

To understand the origins of law behind this right, it is easier to start with the end point: the child and his/her inheritance. In the sixteenth century, the London court of orphans split up a child's inheritance into two parts: the orphan's 'portion' and any 'legacy'. This division reflects that of 'goods' and 'wardship' in the Bristol statement and helps to explain the law systems behind the emergence of the court of orphans. The 'legacy' part refers to any devised inheritance of land or property. This part of the inheritance was governed by common law, derived from the feudal land laws introduced to England after the Norman Conquest and as such gave the mayor and aldermen of London the same rights of feudal land and property wardship as any manorial lord within the system. This is the source of the oft-quoted mayor and aldermen's 'wardship' rights.

However, it was not that simple. The 'portion' part of an orphan's inheritance came from the deceased father's moveable estate, that is to say, his goods and chattels, business capital, profits, due debts and any income from rents on his properties. By the fifteenth century the movable estates of London's wealthy merchants and even the city's artisans, could be sizable. The devising of moveable goods was not governed by common law but by canon law, over which the mayor and aldermen and the secular courts had, in theory, no jurisdiction.

But London practised the right of *legitim*. This was 'the rule of thirds' (a process devolved from a third law system, civil (Roman) law, which in itself had a heavy influence on guardianship practice for goods and chattels) whereby a moveable estate must be divided

into three equal parts; one third for the widow, one third divided equally between surviving children and one third to be disposed of as the testator wished.¹¹

It was the custom of the city to ensure that *legitim* was practised, especially where orphans' portions were concerned. A large part of the role of the common sergeant in the early modern court of orphans was to ensure that these were equally distributed and protected. So, the city often claimed a right, and an accountability, over these portions too, under the 'ancient custom' of *legitim*.

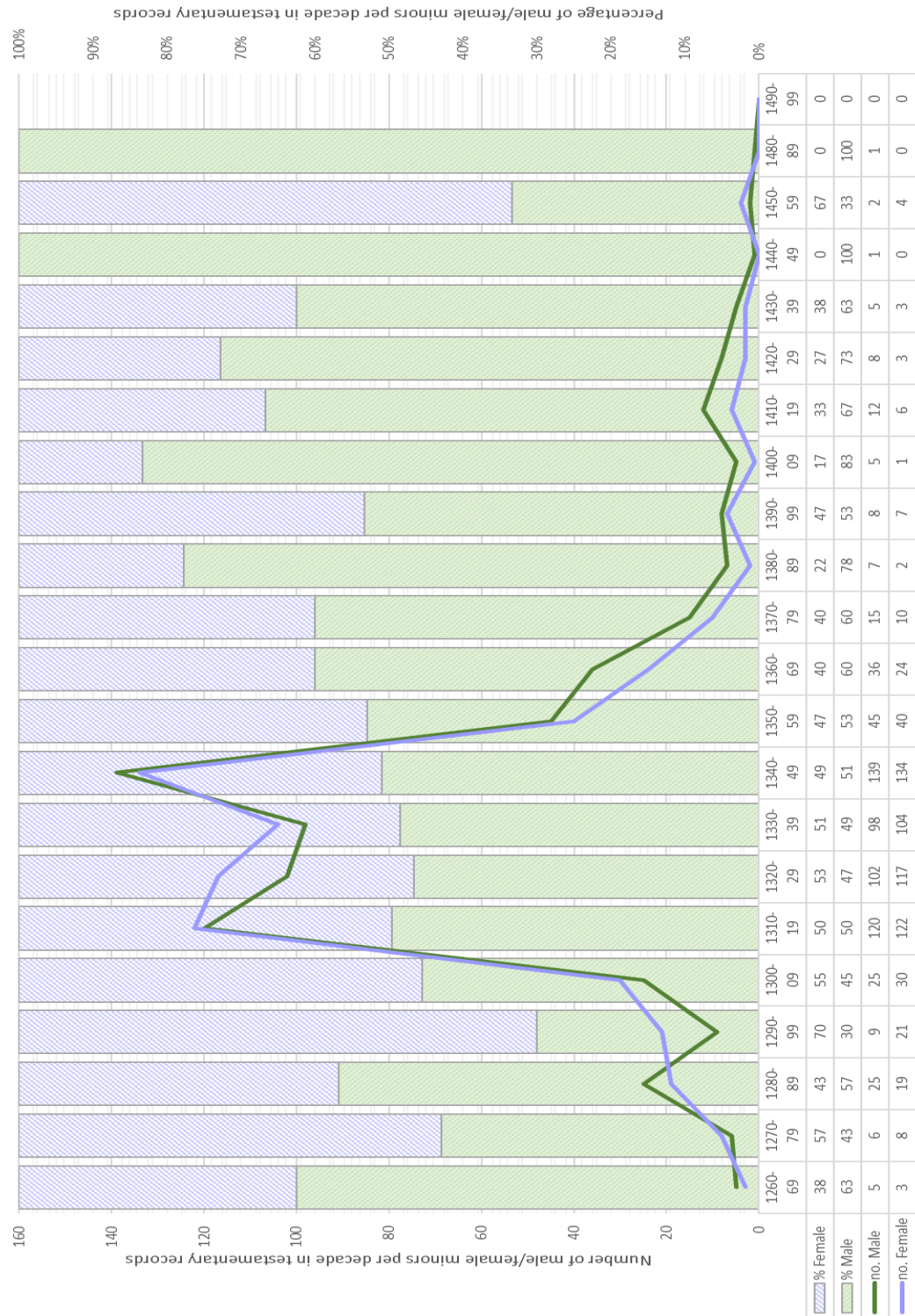
This presents a critical deviation by London from wardship practised elsewhere in England at the time. The combination of these legal principles and the custom of *legitim* meant that London inheritances (legacies from devised landed or property estates and orphans' equal portions of moveable goods, which included capital wealth) were split amongst *all* the children of a deceased citizen. Though such a practice was found in the Low Countries, it was unlikely to be found in England outside an urban environment. Feudal wardship practised the direct patriarchal system of primogeniture while, at manorial level, a mixture of primogeniture and male partible inheritance (that is to say, inheritances, usually land, split equally between all sons) was usual. Miriam Muller found some evidence for female heirs across the manors in her study, usually where no male heir existed or survived, presenting an overall percentage of 72% for male heirs, 26% for female and 2% unknown.¹² In London the proportional split was very different. Figures 2.1 and 2.2 show

¹¹ See, R. Helmholz, 'Legitim in English Legal History' *University of Illinois Law Review* (1984), 659–74

¹² Muller, *Childhood*, 123–4

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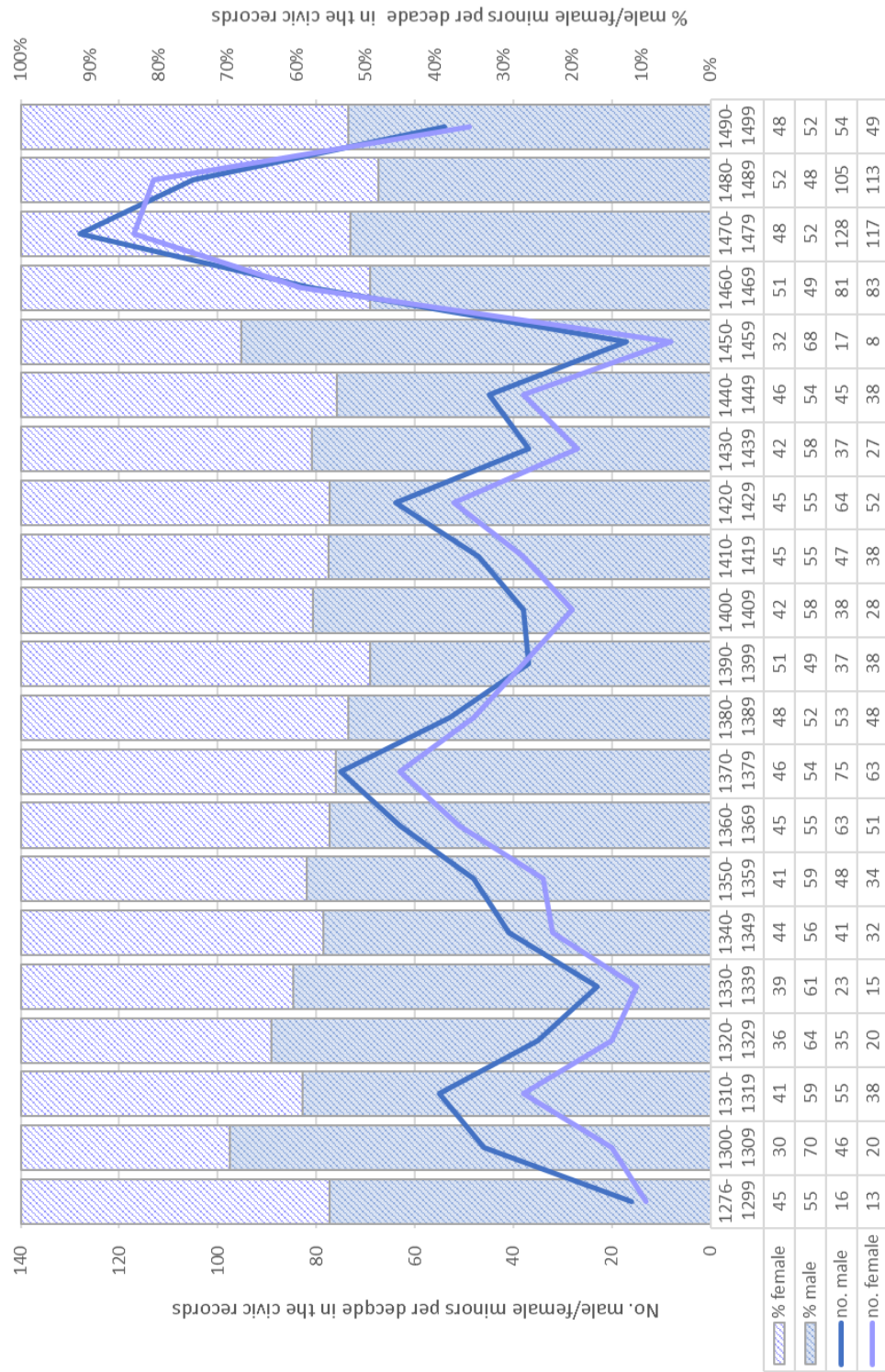
FIGURE 2-1: NUMBER AND PERCENTAGE OF MALE AND FEMALE MINORS, PER DECADE, IN THE HUSTING WILLS ALONE.



Sources: CWCH i, ii.

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FIGURE 2-2: NUMBER AND PERCENTAGE OF MALE AND FEMALE MINORS IN THE CIVIC RECORDS



Sources: CLBA-L; CEMCR; CPMR i-vi; Jor., i-iv

the male- female ratio of known beneficiaries of legacy and moveable inheritances from the hustings and the civic sources over the period of this study. The testamentary sources present the most equitable split of devised estates between male and female heirs: a combined ratio of 50.9% male to 49.1% female in total, suggesting that London citizens practised an entirely partible approach to inheritance.¹³ The overall civic ratio is slightly higher in favour of male heirs, at 54.5% male to 45.5% female.¹⁴ Combined, the total of all known underage children of London citizens inheriting a real estate legacy and/or portion of moveable goods in this study, presents a ratio of 52.7% male heirs to 47.3% female; a much more even distribution of inheritance than feudal or manorial wardship and one which would have significant implications for the distribution of wealth in medieval London.¹⁵

To understand the nuances of this equitable partible inheritance (and the origins of London's court of orphans) it is necessary to understand the division of jurisdiction over an inheritance between the two principal law systems operating in England at the time, common law and canon law and to weave in the influences of the third (civil law) through the continuity of 'ancient custom.'

2.2 COMMON LAW

Common law dealt with 'wardships', that is to say, the right of any lord to the possession of lands and property (and the income from the same) and the value of the marriage of any

¹³ These data are calculated from the numbers of beneficiaries where sex is known, in all wills over time. Sampling shows that within individual wills, real estate legacies, as well as that enforced on moveable goods by the London custom of *Legitim*, were divided equally amongst male and female children.

¹⁴ Calculated from the known sex of children presented as heirs before the mayor and aldermen.

¹⁵ This is discussed in Chapters 7 and 8.

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minor under his legal, land-holding jurisdiction. In London, the mayor and aldermen acted in the same capacity as any manorial lord under this feudal land law and held the right to the wardships of any child of a London citizen who held a devised inheritance of land or property.

Wardship law was complex and London's version was a distinctly distilled form. Under the common law of England, wardship took two forms dependant on how land was held from the king or a liege lord: guardianship in chivalry (feudal) and guardianship in socage. In the first, land owned in fee simple (i.e., freehold) was held in return for military service.¹⁶ Upon the death of the landholder, the lands, property and the person of an underage heir would be passed directly into the wardship of his or her father's liege lord until the heir came of age and could swear fealty.¹⁷ In this instance, the lord held the guardianship *absolute* of the child's inheritance and his or her person. This meant entitlement to all the profits of the heir's lands, subject to a reasonable deduction for maintenance and education, and the lucrative benefits of the ward's marriage. In reality, guardianship in chivalry treated wardship more as a lucrative right than a protective piece of legislation for the child.¹⁸

Guardianship in socage, on the other hand, was, by its devolved responsibilities and defined principles, more altruistic in its practice. Socage was an alternative form of feudal fief-holding whereby land was held in fee simple, or freehold, in return for services of a non-military nature, usually agricultural work or the payment of a sum of money. This was

¹⁶ T.F.T. Plucknett, *A Concise History of the Common Law* (London, 1956), 523–4

¹⁷ In chivalric (feudal) wardship this is very firmly defined as at the completion of his twenty first year. Bracton, *De Legibus* ii. 250. For a female heir, this would happen at fifteen or upon marriage, when her husband would swear fealty on her behalf. Bracton, *De Legibus*, ii. 251

¹⁸ Sheridan Walker, 'Free Consent', 123; 'Feudal Family' 14–15

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London's route into wardship: the city held all its lands in socage (in fee) from the king.¹⁹

The three principles of guardianship in socage that differentiate it from guardianship in chivalry are of particular note to a study of London orphan matters.

First, under this legal category, the guardianship of a minor would not go automatically to the liege lord on the death of an ancestor. Instead, it would be granted by that lord in court to the child's nearest kinsman by right of blood. The legal definition of this 'nearest kinsman' meant that a minor would be placed with a guardian who was likely to be known to them and who could never benefit from his or her death

On the death of his ancestors the heir of a sokeman [one who holds lands in socage] will not be in the wardship of his chief lords but in that of his nearer kinsmen, (that is, of those related by right of blood not by right of succession) ...[i.e.] if it descends from the father's side the wardship belongs to the mother, since she is the nearer relative because of proximity of blood; failing her, her father or mother is called, and failing these, her brother or sister, and failing these, her uncle or aunt. And let the converse be done if the inheritance descends from the mother's side.²⁰

Second, socage wardship decreed that the guardian be held fully accountable for the child's patrimony and was obliged to exercise the office for the benefit of the heir, all profits, after reasonable deduction, being returned to the minor upon coming of age.²¹ Finally, under socage tenure, coming of age was defined as fourteen for a boy and fifteen for a girl rather

¹⁹ Bateson, ii. 147, fn 4. London did hold its lands in socage directly from the crown, a legal situation that was not revoked until 1663. *Historical Charters*, ed. De Gray Birch, 321

²⁰ Bracton, *De Legibus* ii. 254

²¹ Bracton, *De Legibus* ii. 255

than at the completion of the twenty-first year as it was in guardianship in chivalry.²²

Beyond that point the guardian would no longer have the wardship of the minor's person, although he or she might still retain guardianship of the inheritance until twenty-one.²³

Within the legal realm of socage, there existed the sub-category of burgage tenure.²⁴ This was a form of legal land holding, or more specifically, real estate holding, that was uniquely treated within socage law by virtue of two defining principles: the pre-requisite of an overarching urban or borough governance and the right, inherent within it, to devise property to *whomever the testator wished* via the form of an *ultima voluntas* or 'last will'. Thus, land and property held in socage in an urban environment would be governed by burgage tenure.

This meant that the legal guardianship principles governing the process would still be those defined by socage law, but certain critical differences applied. First, as defined in Bracton in the early thirteenth century, coming of age under burgage tenure was different again to that of guardianship in chivalry or socage:

²² For the importance of this difference in law, see the protracted case of Henry Frowyk held before the king's court in 1306. The entire defence was argued on the point of Henry's age at the point when he was allegedly abducted and forced to marry against his will. As Agnes, his mother was appointed his guardian for lands held in socage (some of which were within the city of London) and the statutory age at which a ward in socage can marry and come into his inheritance is fourteen, the defence argued that Agnes had no cause to be awarded damages for the cost of her son's marriage. After much debate concerning the nuances of whether Henry's guardianship was held in chivalry or socage and what age he actually was at the point of his abduction, the defence was overruled, and Agnes was awarded the value of the marriage. *Year Book of Edward II*, (Selden Society Year Book, Series 11, 1904), ii. 157–63

²³ Bracton, *De Legibus* ii. 250. Pollock and Maitland, ii. 460

²⁴ Pollock and Maitland, ii. 345–7. For a detailed explanation of the principles and practice of burgage tenure in medieval law see, M. Hemmeon, *Burgage Tenure in Mediaeval England* (Cambridge, 1914)

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If [the heir] is the son of a burgess, he is taken to be of full age when he knows how properly to count money, measure cloths and perform other similar paternal business. Thus, it is not defined in terms of time but by sense and maturity.²⁵

Second, unlike all feudal and some rural wardships, there was no system of primogeniture. Real estate inheritances under burgage tenure could be devised to whomever the testator wished: son or daughter, legitimate or illegitimate, first, second or tenth child, godchild, or no relation whatsoever, by whatever division or partition the testator wished, all via the means of a will.²⁶ Third, as a derivation of socage law, it was burgage tenure that granted those lawful benefits of land transfer (including the default management of the wardship of minors and the associated rights of property guardianship and marriage) to the city rather than to the king or any feudal liege lord.

The legal principles governing the 'legacy' part of an orphan's inheritance then were a distilled form of these common law tenets, refined to meet the emerging demands of that fourth medieval estate, the urban merchant class. Several key points emerge from this refinement of common/socage/burgage law for the origins of London practice. First, the mayor and aldermen held the right, as would any manorial lord under the king, to the wardship of city minors with these devised common law inheritances. Second, the socage law philosophy that a ward need not be under guardianship of his or her person after the age of fourteen or fifteen, (although his/her inheritance might be retained until the age of twenty-one) explains the practicality of the split guardianships (one, often the mother, being

²⁵ Bracton, *De Legibus*, ii. 250. Pollock and Maitland, ii. 460

²⁶ The principle of common law dower for a widow, however, meant that she was entitled to one third of her husband's lands and tenements for her lifetime. Any devised estate had to take this into consideration. Many children were devised property 'in remainder', after the death of the widow. The dower is discussed further in Chapter 8.

responsible for the *person* of the orphan and another being responsible for the child's inheritance) that were so often found in the city. Third, the socage law principle of a legacy passing into the guardianship of the next-of-kin-to-whom-the-inheritance-could-not-descend, was a rule which the mayor and aldermen of London carefully observed. Finally, common law legacies were, certainly in the fourteenth century, managed through London's great secular court, the husting, which had the power to grant probate on the secular 'will' part of a last will and testament; the part in which property was devised. All of these elements contribute to making London wardship so visible in civic records. Ownership and the transfer of property deeds in the city, in any city, warranted assiduous recording long before the machinery of fifteenth century civic bureaucracy began to produce the minutiae of day-to-day orphan business. What is left to us in the Letter Books, particularly those covering the thirteenth and fourteenth centuries, is, to a very large extent, business arising from a common law-derived protection of property inheritance; the part of the guardianship process that lay outside the custom of *legitim* and the ecclesiastical courts.

2.3 CANON LAW AND THE CUSTOM OF *LEGITIM*

That is not to say that *legitim* and the church courts did not play a significant part in the evolution of the court of orphans. The mayor and aldermen's 'ancient right' to hold wardships for the legacy part of an inheritance may have stemmed from common law, but the orphans' 'portions' of moveable goods often constituted a significant part or, in thousands of cases, the whole, of an inheritance. Moveable goods were bequeathed in a testament (as opposed to a will or *ultima voluntas*) which could only be enrolled and proved

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in an ecclesiastical court.²⁷ As such, any inheritance of goods and chattels was governed by canon law and, therefore, outside the jurisdiction of the mayor and aldermen.

This is, however, where custom becomes relevant and separates London from all other forms of contemporary wardship. *Legitim* was an ancient convention devolved from civil law and its practice, alongside the rights to devise property to whoever a testator wished, meant that inheritance tradition in the city was almost entirely partible.²⁸ But it is important to note that its practice in London remained, not because of a simple distillation of civil law from the time of Roman occupation into English law, but because Londoners *chose* to maintain the principles.²⁹ The importance of this practice in determining the origins of London's court of orphans is demonstrated by the fact that the city held to the custom of *legitim* right through the period and into the early eighteenth century. By the later sixteenth century one of the tasks of the common sergeant, via the court of orphans, was to ensure that citizens' testaments separated the orphans' portion fairly and if not, to adjust them accordingly from any available legacy.³⁰ The decision to cease the practice of *legitim* in the early eighteenth century removed one of its fundamental roles and was probably one of the reasons why the court ceased to exist.³¹ Consequently, while the inheritance of a moveable estate was governed by canon law, the mayor and aldermen increasingly saw themselves as

²⁷ There are many testaments included in the records of the husting court. Whether these were in fact proved first in an ecclesiastical court or whether that process was bypassed is difficult to ascertain. See below [fn. 33](#)

²⁸ By contrast, Muller states that primogeniture or male partible inheritance was predominant in the manors included in her study. Muller, *Childhood, Orphans and Underage Heirs*, 122–4

²⁹ Hart, 'Roman Law and the Custom of London', 50

³⁰ This was a complex mathematical balancing act known as 'hotchpot' and probably contributed to the explosion of records maintained by the court of orphans from the fifteenth century onwards. Carlton, 48–50; Bohun, 284

³¹ Hart 'Roman Law and the Custom of London', 50

overseers of the whole process under their responsibilities in maintaining the custom and practice of *legitim*. This is supported by the fact that, within that overarching control, they frequently deferred to the guardianship principles inherent in civil law-influenced canon law.

2.4 THE CIVIL LAW INFLUENCE ON GUARDIANSHIP

This thesis will demonstrate that civil law influence on medieval urban guardianship was significant. However, it is hard to find specific references to its terminology or principles in the civic sources or indeed amongst the writing of modern historians.³² Pollock and Maitland, authors of perhaps the most comprehensive work on medieval English law, attribute the general lack of civil law terminology in English sources (and an implied lack of its influence over common law) to the fissure in English property law that deprived the secular courts, and thus the civic government, of any control over the fate of a testator's goods and chattels. 'The law, at all events the temporal law,' they claimed 'was not at pains to designate any permanent [or perhaps recorded] guardians for children who owned no

³² By contrast, seventeenth- and eighteenth-century antiquarian writers gathered and espoused the principles of English wardship in many texts, summarising influences from common, ecclesiastical and civil law. See particularly: Coke on the standardisation of guardianship, Coke, E., *The Compleat Copy-Holder*, (London, 1650), 20–3; Godolphin, J., *The Orphan's Legacy: Or a Testamentary Abridgement in Three Parts*, (London, 1701) part II chapter 9. 106 and, on London practice specifically, part III, 428; Canon H. Swinburn who captures the essentials of civil law in guardianship as practised in the diocese of York in the seventeenth century; Swinburn, H., *A Brief Treatise of Testaments and Last Willes Very Profitable to be Understoode of All*, (London, 1611) part 3, 7–14. English law influences on the practice of guardianship in England since the time of Roman law, are neatly pulled together in the publication '*The Case of Orphans Consider'd from Antiquity. With Some Remarks on our Courts of Ward, and Why Put Down; As Also on the Court of Chancery, Having the Disposition of Orphans Money*', (London, 1725) (Eighteenth Century Collections Online Print Edition). Reportedly the product of multiple contributors, this publication argues emphatically for a widespread approach of authoritative appointment only in the absence of a testamentary guardian.

land.”³³ Richard Helmholz has subsequently argued that many of the gaps left in the common law administration of guardianship were, in fact, filled by canon law and that there are aspects of civil law and its terminology inherent in medieval English ecclesiastical law, especially in those aspects which governed testamentary guardianship.³⁴

Even if the terminology is lacking, these civil law principles are resonant in medieval London wardship. Civil law distinguished between two forms of guardian dependent upon the age of the orphan: the *tutor* and the *curator*.³⁵ The former related to a child before puberty and the latter to an adolescent over the age of fourteen and anything up to the age of twenty-five.³⁶ The role of *tutor* was recognized in three separate forms; *testamentaria*, *legitima* and *dativa*. *Testamentaria* referred to a guardian named in a parent’s will. *Legitima* referred to an appointment of the next of kin if the parent died intestate and *dativa* was a guardian appointed by a magistrate.³⁷ Roman civilian lawyers thus defined wardship, and its process, most assiduously. While it never attained the degree of application to be found on the continent, civil law nonetheless shaped much of English medieval common and canon

³³ Pollock, and Maitland, ii. 466

³⁴ Helmholz, ‘Roman Law of Guardianship’, 224

³⁵ In this study, only one instance of the specific terms *tutor* and *curator* was found in the civic records relating to guardianship – that of the seven children of the Italian merchant Cambin Fantini of Florence. Fantini’s orphans appear to have been placed under guardianship outside of London’s process, possibly in Florence where Roman law was more usually practised. *CLBE*, 285. Helmholz, however, does present evidence of this terminology being in use in the ecclesiastical courts. Helmholz, ‘Roman Law of Guardianship’, 230–51

³⁶ Helmholz ‘Roman Law of Guardianship’, 229. Swinburn, ‘Treatise’, 101–9

³⁷ The seventeenth-century jurist Sir Edward Coke acknowledged that these principles had influenced canon law in England, but the terms were not strictly adhered to and clearly became fluid across forms of law as the centuries progressed. By the seventeenth century, Coke had summarised the lawful forms of guardianship into guardianship by chivalry, by socage, by nature and by nurture. The latter two appear to reflect the appointment of a natural or ‘legitimate’ guardian and one ‘given’ to nurture (*dativa*). Coke, *Compleat Copy-Holder*, 19–20, 118

law.³⁸ The split categories of the tutor and curator are not dissimilar to the principles in socage law whereby guardianship of a child's person could end at the age of fourteen, but guardianship of his or her inheritance could continue to the age of twenty-one. More significantly, although it is never explicitly laid down in any civic policy, this civil law order of appointment for a guardian (testamentary first, next of kin second and, only ever in the absence of the first two, a given guardian appointed by the mayor and aldermen) was certainly practised throughout the period of this study.

2.5 PROBATE IN MEDIEVAL LONDON

It is in the practice of these combined legal principles that the real complexities of London's medieval wardship lies. Common law governed property estates, over which the mayor and aldermen had rights of wardship. Canon law governed moveable inheritances, over which civil law cast its influence through the custom of *legitim* and the accepted sequence for guardianship appointment. It should have been simple.

It was not. In the medieval period, a 'last will and testament' could, and in legal terms ought to, be two separate documents. The testament was the part dealing with the disposal of goods and chattels and the will (the *ultima voluntas*) was the part dealing with the disposal of land and real estate. Canon law had sole jurisdiction over the probate of testaments and yet property law decreed that wills *could* be proved in a secular court. That is assuming that

³⁸ Some historians had long argued that London's unique customs derived directly from the civil law introduced during the city's period of Roman rule. This was disproved, where it related to inheritance, in 1930 by Walter G. Hart, but his argument suggests that the influence of Roman civil law remained. Hart, 'Custom of London', 49–53. Canon Swinburn is explicit on the principles of civil law applied to guardianship in the province of York in the seventeenth century, and Helmholz finds evidence to support the influences of civil law in the records of church court act books and cause papers of York and Canterbury. See Helmholz 'Roman Law of Guardianship'; Swinburn, 'Treatise'; Pollock and Maitland ii. 462

the two remained separate. In London there existed the husting court: a secular court overseen by the mayor and aldermen. While some of the wills enrolled there in the thirteenth century were just the *ultima voluntas* part of a last will and testament, the majority, from the mid fourteenth-century onwards, were combined wills and testaments, blurring the lines of jurisdiction over inheritances contained within them.³⁹

For a late medieval London citizen, the passage of a last will and testament through the courts could be a disjointed and complex process if law systems were followed to the letter. When a London citizen died having written down his last wishes, the first question posed in legal terms was whether it disposed of only goods and chattels or whether property and/or land were included. If it were the former, responsibility for probate fell wholly within the jurisdiction of the church courts and, depending upon the location of the testator's residence at the time of death and the value of his or her estate, the testament would be enrolled before an Ordinary in one of the ecclesiastical courts covering the city.⁴⁰ If, however, the

³⁹ The procedure for the enrolment of wills and testaments in the husting court is not clear. It was the practice of the court clerks until around the second quarter of the fourteenth century to only enroll the 'will' part of a last will and testament in the husting rolls, with the testament part enrolled in a church court, or in the husting rolls but separate from the will. From that time, an increasing number of whole wills and testaments appear as one recorded document, but there are instances of separated recordings as late as the second half of the fifteenth century. Henry Frowyk, mercer and alderman is an example. His will is enrolled in the husting court in 1460 but his testament is enrolled elsewhere. *CWCH* ii. 541

⁴⁰ Usually, if the value of the estate was less than £10, the will would pass through the archdeacon's court of London or Middlesex depending on where the testator lived in. If the estate value was above £10 then, again, depending upon the testator's residence, the testament would be proved in either the Bishop of London's commissary or consistory court. If lands outside London were included in an estate, the will would be proved in the prerogative court of Canterbury. See R. A. Wood, 'Life and Death: A Study of the Wills and Testaments of Men and Women in London and Bury St Edmunds in the Late Fourteenth and Early Fifteenth Centuries' (Ph.D. thesis, University of London, 2012), 23–4. For a summary of the overlap of church courts in London, see R.M. Wunderli, *London Church Courts and Society on the Eve of the Reformation* (Cambridge, Massachusetts, 1981), 9

testament contained a part devising land or property, that part could pass through a secular court: alone if it was separated, or having passed through an ecclesiastical court first if the whole document also contained a testament of goods and chattels.⁴¹ If the estate fell at least partially within the geographical boundaries of the diocese of London, then the *ultima voluntas* (or at least that part relating to London property) could be proved in the husting court, London's own secular court for the administration of property (and citizens' pleas) which operated under burgage law.

Such was the theory, although, in practice, there is much evidence to suggest that last wills and testaments in London, even at this time of legal separation, more often than not passed through just one court or another. Until the middle of the fourteenth century, the wills enrolled via the husting court tend to deal only with property, suggesting that goods and chattels were devised via a testament proved in a separate ecclesiastical court. By the 1340s, testaments began to appear as separate but connected documents alongside wills proved in the husting court, indicating that the onerous practice of proving wills and testaments separately had begun to decline. By the mid-fourteenth century wills being proved in the husting court were starting to contain full testaments disposing of goods and chattels too. Theoretically, they should have passed through a church court first via the office of an ordinary, but there is little recorded evidence to substantiate this.⁴² Only one *ultima voluntas* enrolled in the archdeacon's court between 1373 and 1415 was enrolled additionally in the husting court; that of the fuster, Henry Payn in 1411.⁴³ Conversely, Robert Wood found that a number of wills of London citizens devising property were enrolled only in the Archdeacon's court when the testator could, and should, have used the

⁴¹ *CWCH* i. xxv

⁴² One exception is the note added to the will of Henry de Coventry in 1282, stating that the testament part had been sufficiently approved before the Official of the Archdeacon of London. *CWCH* i. 63

⁴³ *CWCH* i. 389

husting court.⁴⁴ Certainly by the fifteenth century, London's wills were routinely being enrolled and proved in the Prerogative Court of Canterbury, sending the probate business of the husting court into sharp decline.⁴⁵ What drove the choice of which court was used, was more likely to be the logistics of a citizen's residence, property value, the financial consideration of fees and, to a certain extent, social standing, than the due application of the appropriate system of law.⁴⁶

Where this choice of probate affects wardship is in its visibility; in the predominance of secular probate over ecclesiastical as a starting point for the guardianships recorded in civic records. The children of *all* citizens qualified for the protection of the mayor and aldermen by city custom, and, as Helmholz argues, testamentary guardianship under canon law in ecclesiastical courts filled the parts temporal law could not (or did not want to) reach.⁴⁷ Although London took cognisance of this, the reality was that this disconnection in the overarching law systems meant that those with property and estates dominate the civic sources and the guardianships of those children with smaller moveable inheritances remain largely invisible.

In summary, no *one* of the legal processes of guardianship that existed under the various systems of common, canon or civil law individually defined or dictated the exact way London managed and executed its wardship process. But they do explain its origins. To understand the diversity of guardianship at large in the late medieval world is to understand the complexity of law systems operating in an urban environment like London.

⁴⁴ Wood, 'Life and Death', 25, 42–3

⁴⁵ See Figure 3.2.

⁴⁶ There is an argument that church courts might have priced testators – or their executors – out of the market. They took a percentage of the estate as a fee for probate. The husting fees consisted only of a fee of enrolment paid to a clerk. See Wunderli, 'London Church Courts', 113–6; *CWCH* i. xiv

⁴⁷ Helmholz, 'Roman Law of Guardianship', 224

The city's skill lay in its ability to manipulate the various elements of law to its singular advantage; in the case of wardship, to use them to define a city policy consistent enough to remain authoritative, and in managing *legitim* as well as legacy, to create a civic practice flexible enough to change and adapt to changing circumstance.

2.6 CONCLUSION

The terminology of London's 1244 response to the Eyre judges is of great significance. In just a few short sentences, the city's lawyers created a succinct statement containing reference to all overarching law systems and the derivation of their wardship rights: the burgage law element of the right to devise by will; the civil law right to appoint a guardian *testamentaria* and the implied precedence of such an appointment; the civil law right to devise (and thus the city's declared protection of) goods and chattels as well as property (which temporal law alone did not cover); the socage law-derived principles of guardian responsibility (to profit to the advantage of the child during minority and render account upon coming of age) and the safeguarded delineation of guardianship (mother's side for a patrimonial inheritance, father's side for a matrilineal inheritance).

So clear and comprehensive was this 1244 response that it would become the city's consistent precedent for its rights and responsibilities regarding wardship. It is testament to the legal precision of the 1244 statement that it was copied, virtually word for word, into city customals in the 1320s, compiled at the instruction of the lawyer and law scholar (and city chamberlain) Andrew Horn.⁴⁸ In 1419, John Carpenter used the same statement again,

⁴⁸ It is not clear exactly in which 1320s customal the 1244 Eyre case actually appeared. Riley attributes the folios used in the 1419 *Liber Albus* to a 'commencing portion' of *Liber Custumarum* – but not the same version as appears in his edited *Munimenta Gildhallae*. However, N.R. Ker traces them to the *Liber Legum*. Both of these compositions owed their creation to Andrew Horn and date from the 1320s. For discussions on this see *London Eyre, 1244*, ix-xxxii; J. Sabapathy, *Officers and* [cont.]

word for word, from the 1320 quires and placed it in Book I Part II of *Liber Albus*; the section on legal precedents for city governance.⁴⁹

The legal origins of London wardship underwrote its practice. These seigneurial rights under land law were the authority that was being drawn on whenever London defended its legal rights to the crown. But these legal origins also provide a context for the practice of wardship in the later medieval city. They illustrate how very far removed from the early modern wide-reaching, all-encompassing bureaucratically managed process London was at the start of the period. They explain why civic records alone were, certainly at first, concerned with the common law aspects of property wardship, and why, in deferring to civil law influences of testamentary guardianship, so many thousands of orphans across parish and ward, merchant households and artisan families, were never captured in the civic court records at all. They provide the background to explain how London went from an almost exclusively property-led interest in wardship matters to one that encompassed the fair and protected division of a moveable estate and the person of the child.

At the start of the period, there existed only this 1244 declaration of policy and the vague points of procedure that the law systems could provide: a child in minority should have a guardian; that guardian should provide guarantee of worth, financially and morally, and where there was profit to be made, an account should be rendered at the close of the wardship. Intervention was a responsibility for the city authorities, but its principles and boundaries were far from defined. That is what the mayor and aldermen had to develop.

Accountability in Medieval England 1170–1300, (Oxford, 2014), 1, fn. 4 and N.R. Ker, *Liber Custumarum and Other Manuscripts Formerly at the Guildhall*, *Guildhall Miscellany*, 3 (1954)

⁴⁹ See Chapter 7.

3. RECORDS AND RECORDING PRACTICES CONCERNING ORPHANS 1258–1498

It is a fact, not less true because not universally known...that there is no city in existence in possession of a collection of archives so ancient and so complete as that belonging to the city of London.¹

With this paraphrasing of Jane Austen, Henry Thomas Riley begins his introduction to his edited volume of *Liber Albus*, one of the city's landmark customals produced in 1419. The 'completeness' of London's medieval civic records has long been lauded and, indeed, a good deal of the attraction of this investigation was the availability of a chronologically continuous set of city administrative records beginning in 1275 and extending through and beyond the period of study. However, 'complete' is a relative term.

This chapter will examine the premise that London's medieval records for orphan matters are neither 'complete', in the sense that there exists a record for every city orphan, nor 'whole', in the sense that all orphanage procedure is recorded for each child in minority from the death of the father to the coming of age, marriage, or death of the orphan.

Statistical analysis also requires care. Across two or three centuries, such was the change in transactional motives, civic procedure and even city population, that comparing thirteenth-century numbers with those of the fifteenth century must be done with caution. The records that survive must also be placed in the context of change; change to the civic bodies which produced the records, and in the evolution of the city's recording practices. This chapter aims to identify gaps in the source material, define statistical presentation, and examine the context of the records used.

¹ *Liber Albus*, ed. Riley, v

3.1 THE PROBLEM OF SURVIVAL

The sources used to compile the database of city orphans in this study are identified in Table 0.1. The Letter Books indisputably provide the richest seam of evidence for orphanage matters. These books survive from 1275 and run, unbroken, well beyond this period of study. In their calendared form, they exist in eleven volumes. Sample testing against the manuscripts suggest that the calendar includes all cases of orphanage, but not always all the extended details.² The calendared Letter Books nonetheless still provide the richest single source of London's medieval wardship practice and it is understandable that they have been used almost exclusively by scholars in most appraisals of London's wardship practice to date.

However, not all the civic records remain to us quite so completely. Transactions from the mayor's court survive in the form of a number of rolls dating from 1298–1307 and then in the Plea and Memoranda rolls of 1323–1482. The Journals only survive from 1416, although they were probably begun in the fourteenth century. The city's chamberlain accounts, which would have yielded significant supporting evidence of orphan transactions, do not survive at all for the fourteenth and fifteenth centuries.

A caveat must also be applied to the calendaring of the husting wills. A total of 3,647 calendared husting wills were read for this study: 2,166 of them mention children, of which 895 contain children known to be minors.³ Of those 895 wills, 577 contain a request for a guardian to be appointed for minors and in a further 315, guardianship is implied by the fact

² Sharpe almost always excludes the extended detail of rendered accounts. In Letter Book L he acknowledges some brevity in calendaring the 'common form' which orphan recognisances took from the 1460s onwards. *CLBL*, 3 fn. 2

³ Overall, Sharpe's interest in family history resulted in his inclusion of references to minors in his calendaring of husting wills.

that there are known underage children and a widow survives.⁴ Sharpe does not include details of pious bequests in his calendar, nor, frustratingly, does he name executors or witnesses. Sampling does, however, suggest consistency in capturing the details of minors and guardianships and in his companion calendars of the Letter Books, he frequently cross-references the husting wills of deceased fathers of orphan children. Thus, while Sharpe's calendaring is of a good standard for the purposes of this study, it is possible that, because not every husting will was read in manuscript form, the testamentary evidence could, if anything, under-represent the numbers of orphans at this time.

3.2 CONTEMPORARY COMPLETENESS: THE PROBLEM OF 'THE LENS'

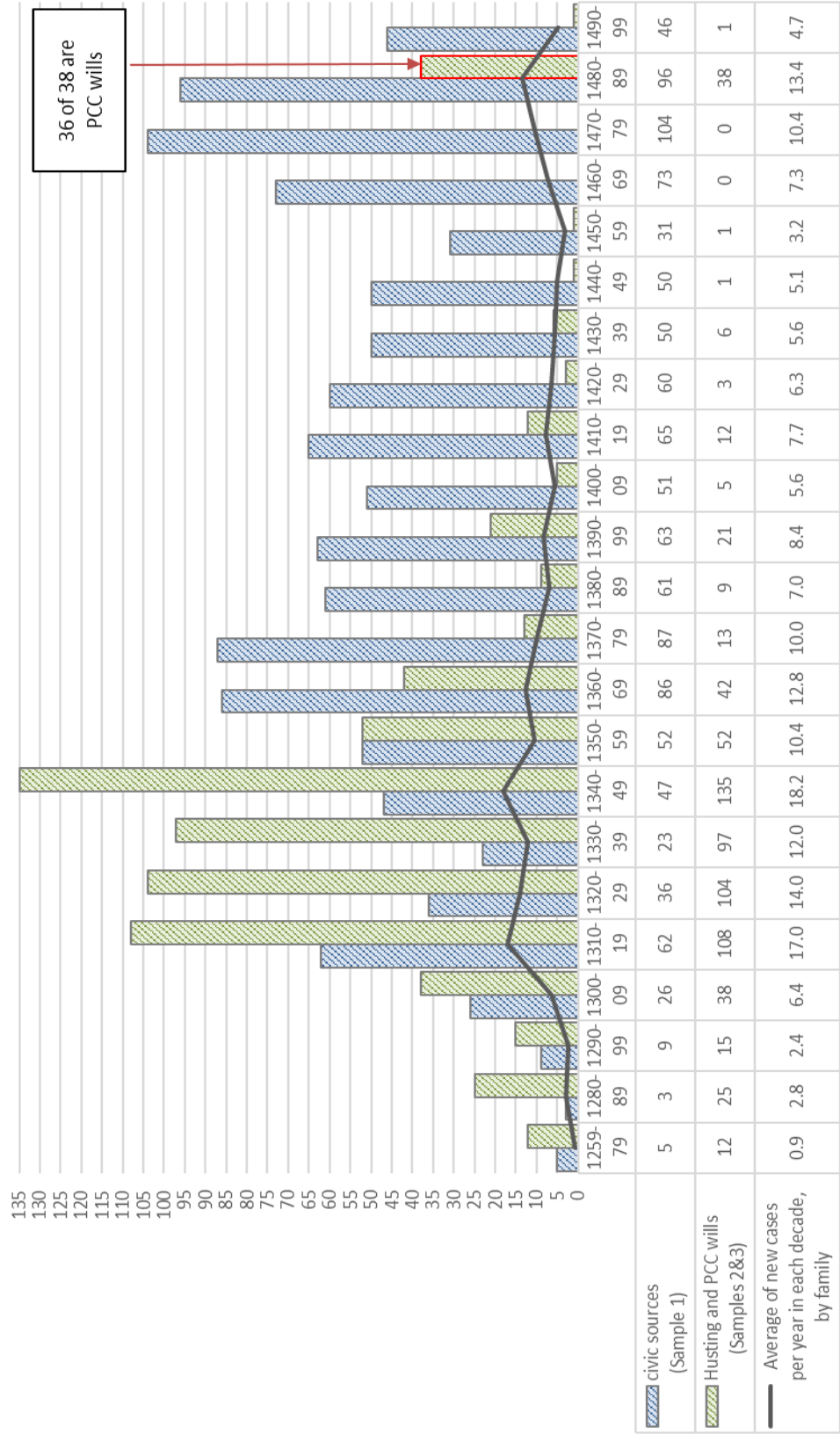
All of these not-quite-complete civic and testamentary records yield a figure of 3,753 transactions of orphan business (3,558 individual orphans from 1,924 families) over a period of 240 years. Even taking into account the population explosion of the late sixteenth century, this figure is exceptionally low by comparison with the numbers of orphans passing through the early modern court.

The decline in the popularity of the husting court for proving the wills of London citizens in the fifteenth century, illustrated by the data in Figure 3.1, must be considered.⁵

⁴ Of these implied guardianships, 302 are from the 1258–1349 period when wills were necessarily short because of plague or were simply a will with a testament enrolled elsewhere. All have known underage children and 265 of the 302 have known surviving widows who were the likely guardians. A further 37 have implied surviving widows. See Table 7.1.

⁵ See also Figure 3.2.

FIGURE 3-1: BREAKDOWN OF THE NUMBER OF NEW CASES OF WARDSHIP (BY FAMILY) IN EACH DECADE RECORDED IN ALL SAMPLES



Total Number: 1,924: CLBA-L; CEMCR; CPMR, i-vi; Jor., i-iv; CWCH i, ii.; PCC Logge i, ii.

On the basis of this presentation, it would appear that as the representation of orphans in hustings wills declined, so the appearance of minors in civic transactions increased. To test this assumption, a sample set of wills enrolled in the Prerogative Court of Canterbury (the London citizens' wills found in the 1479–86 *Logge* Register) were catalogued with the same criteria as their husting counterparts. Critically for this study, the findings confirm a preference for proving wills in that court, rather than a decline in testamentary guardianships as the fifteenth century progressed.⁶

The 1,924 family cases of wardship breaks down to an average of between 1 and 18 new family cases per annum over the course of two centuries.⁷ If scholarly population analysis is taken into account and it is accepted that (a) the population of the city levelled at somewhere broadly around 80,000 before the Black Death and about 40,000 for at least a century after it, and (b) prior to 1550, no more than 12% of London's population were free citizens, then that produces a very rough average population count of 9,600 freemen up to 1349 and 4,800 afterwards.⁸ The average number of new orphan cases per year of 3.1 for the period 1275–1349 and 9.2 for the period 1350–1495, set against these population totals,

⁶ See Chapters 7 and 8.

⁷ The period 1276–99 yields such low figures that it is included for reasons of completeness only.

⁸ Tucker, 24. Thrupp's calculations are slightly lower for the post plague period, at 4,400 citizens in a population of around 33,000 in 1501. Thrupp, 51. For discussions on the population of medieval and early modern London, see D. Keene, 'A New Study of London before the Great Fire', *Urban History Yearbook*, (1984) 11–21; P. Nightingale, 'The Growth of London in the Medieval English Economy' in, *Progress and Problems in Medieval England* ed. R.H. Britnall and J. Hatcher (Cambridge, 1996), 89–106; Barron, *LLMA*, 45, 241–2; Tucker, 20–1, 24; Sloane, B., *The Black Death in London* (London, 2011), 153–4; S. Rappaport, *Worlds Within Worlds: Structures of Life Within Sixteenth Century London* (Cambridge, 1989), 61–86; V. Harding, 'The Population of London 1550–1700: A Review of the Published Evidence', *London Journal*, 15 (1990), 111–128

suggests that a very low proportion of wardships made it into the records of city government. So, what became of all the other minors of deceased citizens? Did they not have access to the city's protection?

Similarly, few of the cases documented have a full transactional record of the whole end-to-end process, from father's death to coming of age or marriage, that becomes the norm by the sixteenth century. What happened to all the children whose initial guardianship was recorded but whose cases never attained a written conclusion? Wills devising property in the city often name guardians and mandate that they follow the civic custom and present sureties in the Guildhall before the mayor and aldermen, and yet, in the majority of these cases, there is no corresponding entry of such an occurrence in the civic records. Does that mean it did not happen? Once again, the definition of 'completeness' must be considered. It would seem that, in this period, orphan records were not complete: London's contemporary government itself did not record, or retain, details of all its fatherless children.

There is a good reason for this. Not only do these civic records only partially survive, but what is recorded in them, certainly for orphan matters, was never complete in the first place. To understand why this was, it is necessary to examine the relationship between the various sources and their courts of origin, their evolution over time and the idiosyncrasies of contemporary recording practices.

THE EVOLUTION OF THE CITY COURTS

Perhaps the most significant point to note is that the Letter Books, that continuous, unbroken source, were never intended to capture the detail of day-to-day transactions. They were the city's civic repositories for important decisions, documents and meetings. They captured common law legal business, ordinances, merchant law disputes and elements of the city's relations with the crown. Much of this originated in the court of aldermen but

3: Records and Recording

some emanated from the husting court, the mayor's court, the common council or no court at all. They were never meant to function as a record of daily city business. Letter Books A, B and C, dated between 1275 and 1309 considerably overlap each other chronologically and Letter Book D is largely concerned with civic oaths and apprenticeships. From Letter book E onwards, the volumes begin to record that business deemed important enough, by court clerks and the city's citizens, in a more sequential form. The Journals, (confusingly called the Journals of the Common Council) which were probably begun some decades earlier than their 1416 point of survival, were, during the period of this study, largely records of meetings of the court of aldermen with the addition of the outputs of the more occasional common council meetings. Some more important decisions are duplicated in the Journals and the Letter Books.⁹

The business of London's city courts overlapped significantly in the later middle ages, even more so in the period before the Black Death, and this had significant connotations for the evolution of wardship practice from its origins in common and canon law into the more administrative civic practice of the later fifteenth century. Table 3.1 sets out the structure of the courts practising in London during the period of this study in relation to orphan affairs. For the purposes of the rights of the mayor and aldermen to wardship under common law, it is important to note that the medieval city of London acted as a county in its own right and the mayor as a direct vassal of the king. The husting court was the oldest and most far-reaching (in terms of business and legal and administrative authority) of the city courts. By

⁹ After 1495, a separate record of the meetings of the court of aldermen was kept in the Repertories. At that point the Journals continued as a record of the meetings of the common council only.

3: Records and Recording

TABLE 3.1: LONDON CITY COURTS DEALING WITH ORPHAN MATTERS, 1275- 1495

COURT	FREQUENCY	PRESIDED OVER BY	RECORDS
HUSTING COURT	<i>Weekly – Mon & Tue</i>	<i>Mayor and minimum six aldermen sheriffs & recorder ¹⁰</i>	<i>Husting Rolls of Deeds and Wills. Husting Rolls of Pleas of Land and Common Pleas</i>
MAYOR'S COURT	<i>Probably twice a week ¹¹</i>	<i>Mayor with aldermen ¹²</i>	<i>Early Mayor's Court Rolls Plea and Memoranda Rolls</i>
COURT OF ALDERMEN	<i>Daily as needed</i>	<i>Mayor & aldermen ¹³</i>	<i>Journals and Letter Books Repertories (from 1495)</i>
COMMON COUNCIL	<i>8 times a year by 1470s ¹⁴</i>	<i>Mayor & aldermen</i>	<i>Journals with some duplication in the Letter Books. Journals alone from 1495.</i>
WARDMOTE		<i>Ward alderman</i>	<i>Wardmote returns 1420, 1421 and Plea and Memoranda Rolls</i>
'COURT OF ORPHANS'	<i>A subcommittee of the court of aldermen sitting as needed to discuss and administer orphan matters</i>	<i>Mayor, aldermen & chamberlain ¹⁵</i>	<i>All of the above plus (from 1586) additional inventories, common sergeants' orphan books and numerous miscellany ¹⁶</i>

¹⁰ Pleas of land were heard on alternate weeks to common pleas. *CWCH* i. x-xiii.

¹¹ Tucker, 138

¹² Tucker, 214

¹³ Tucker, 25

¹⁴ Tucker, 26; Barron, *LLMA*, 141–2

¹⁵ Tucker, 121

¹⁶ Collection CLA/002/01-02, London Metropolitan Archives. See H. Deadman and E. Scudder, *Guide to the Corporation of London Record Office* (1994), 49–50

1258, it had been in existence for several centuries (thus pre-dating the mayoralty by some considerable time) and operated as a county court.¹⁷ By the thirteenth century, aside from its function as the shire court, its primary purpose seems to have been for the mayor, supported by his aldermen, to hear both the city's civic common pleas and pleas of land. However, as Chapter 2 has outlined, it also oversaw the crucial process of probate. Socage-law-derived burgage tenure enabled secular probate (an alternative to the canon law process where testaments bequeathing moveable goods passed through the ecclesiastical court system) for any citizens' wills in which city property was devised. It was this oversight of probate that provided the starting point for the mayor and aldermen's privileges, responsibilities and involvement in wardship.¹⁸ By 1268, the business of the husting court, which sat weekly on a Monday, had become such that the city was granted authority, by a charter of Henry III, to extend its sitting onto a Tuesday for incomplete pleas.¹⁹ Although all records remained dated to the Monday, it thereafter became the norm for the mayor to hear pleas of land on a Monday and common pleas on Tuesdays. Even so, the volume of the latter became such that by the start of this period, pleas of a personal nature were spilling over into the realm of the mayor's court, presided over by the incumbent and his aldermen and free to sit as often as required.²⁰ The mayor was only one man. He was the city's magistrate,

¹⁷ C. Brooke and G. Keir., *London 800–1216: the Shaping of a City* (London, 1975), 249; The Corporation of London, *The Corporation of London: its Origin, Constitution Powers and Duties* (London, 1953), 81; Barron *LLMA*, 127–8; Tucker, 21, 90–1

¹⁸ In their earliest form, until the mid-fourteenth century, the enrolled husting wills are simply extracts, the *ultima voluntas* part of a testament that dealt with devising property, which the city chose to record separately from ecclesiastical court-enrolled testaments.

¹⁹ *CEMCR*, xiii. *Corporation of London*, 81. The original charters of Henry I, Henry II, Richard I, John and Henry III held at the Guildhall state that the husting court be held only once a week. (*senem tantum in hebdomada*) but in later copies, from the time of Henry III onwards, the word *tantum* is frequently omitted. *CWCH* i. vii fn. 2; *Historical Charters*, ed. De Gray Birch, xvii, 4, 5, 7–8. 11, 29, 40

²⁰ *CWCH* i. iii; Tucker, 8, 100; *CEMCR*, xiv, xvi–xviii

able to sit in judgement on matters of civic law and to oversee the city's obligations under common law practices (such as probate and burgage tenure and debt and recognisance; those critical to orphan matters.) But he was also at the helm of the legislature and at the head of civic administration. It is little wonder that his twenty-four aldermen (twenty-five after 1394²¹) presided over all the city courts alongside him, nor that the court of aldermen began increasingly to hear business devolved from the mayor's court.²² This business appears, with some certainty by the fifteenth century, to have been split broadly along the division of judicial and administrative, with the mayor's court undertaking the former and the court of aldermen the latter.²³

Of relevance too is the location of these courts. The common council and the husting court sat in the main chamber of the Guildhall. In the fourteenth century, the husting court sat on two days of the week at the west end and the mayor's court sat as required at the opposite end.²⁴ The relevant point here is that the mayor and his aldermen were in the same location almost every day of the week, hearing the business of one court or another. By the 1370s, there was mention of the mayor's court having moved to a separate room and, with the rebuilding of the Guildhall in 1422, this chamber appears to have been split, either nominally or literally, into an inner and outer chamber.²⁵ The mayor's court heard business that required public attendance in the outer chamber, while the inner chamber seems to have been reserved for more delicate matters of inquisition and inquiry and increasingly became

²¹ Farringdon was split into two in that year. Barron, *LLMA*, 121

²² Tucker, 31, 214; Barron *LLMA*, 155

²³ Tucker, 11, 116. See, as an example, the cases of the Sellynge children and of Ellen Parmenter in 1349. Both were heard at the height of the Black Death; however, it is notable that the pleas were heard in the mayor's court, but the guardianships awarded (recorded) in the court of aldermen. *CPMR* 1323-64, 227-28; *CLBF*, 195, 199

²⁴ Tucker, 33, 132-5

²⁵ Tucker, 134

the realm of the court of aldermen.²⁶ The court of orphans, once it came into existence, was simply a sub-meeting of the court of aldermen which, along with the chamberlain, sat specifically to discuss and administer the output of a thorough and heavily bureaucratic wardship process.²⁷ At some unknown point it was granted its own location and sat in a room to the west of the mayor's court.²⁸

EVOLUTION OF THE CITY RECORDS

All of this is of significance when we consider the official outputs of these civic bodies and the orphan matters contained within them. Table 3.1 illustrates another important point: that the mayor and aldermen presided over all these courts.²⁹ References to London's wardships are to be found not just in the Letter Books but across the whole spectrum of the civic records arising from these civic meetings. The very fact that the same twenty-four (or twenty-five) men presided over all the courts that produced these records and that those courts were held, by and large, in the same location, helps to understand why the evidence of their outputs remains in the form that it does, or does not. For example, when testators required guardians to give surety in the Guildhall, but there is no corresponding record of this in the Letter Books, it may well be that the sureties were brought and the assurance sworn before the mayor and aldermen in the husting court as the probate transaction was undertaken. The overlap in business between the husting court, mayor's court and the court

²⁶ Barron, *LLMA*, 155

²⁷ This sub-meeting was first acknowledged by this name in the records in 1492 but was not referred to in records as the 'court of orphans' until 1529. *CLBL*, 286; Barron, *LLMA*, 269–70; Carlton, 36.

²⁸ By the eighteenth century it had its own room in the Guildhall, although it is likely that this meeting place had been established long before then. In 1598, John Stow refers to 'the Court of Orphans' in the Guildhall as though it were a physical entity. Noorthouck, *New History of London*, 587–593.; Stow, i. 271

²⁹ The attorneys of the husting court were also the attorneys of the mayor's court. *CWCH* i. xiii

of aldermen explains the existence of some orphan matters in duplicate, in some husting wills and the Letter Books, occasionally, in both the Letter Books and the Plea and Memoranda rolls and, in the fifteenth century, the Letter Books and the Journals. In the fifteenth century, and as the process tightened into its more administrative form, it is significant to note that, while the court of aldermen met at least weekly, the common council only met once a quarter or so.³⁰ Consequently, it is likely that the legal requirement (recording and managing debt and recognisance) began to be captured at the more frequent and regular sessions of the court of aldermen and was supplemented, in the Journals, by details of orphan cases as they were discussed in more depth with the representatives of the common council when that body met.³¹

Moreover, in the fourteenth century, before the tightening up of civic bureaucracy and the proliferation of a civil service process (and officers) that was to come, the civic court records which survive (the Letter Books and the mayor's court Plea and Memoranda rolls) were not a complete record of day-to-day transactions. Although both appear to have been set up to record sessions (with all business pertaining to a particular matter recorded under the date and heading of the first recording) there are considerable gaps in the manuscripts where subsequent information was never filled in.³² In his introduction to the early mayor's court rolls, Thomas describes the concept, and existence, of the 'mayor's bag'.³³ Each incumbent

³⁰ Barron, *LLMA*, 133

³¹ It is notable that there are spaces left in the Letter Books where orphan information is recorded which were clearly meant for later updates/insertions. There are no such spaces in the Journals, which were more informal and were not used to record formal decisions and actions.

³² Tucker, 9, 13

³³ *CEMCR*, viii. The rendered account for Isabella de Mymmes is recorded as having been held in a bag of documents belonging to the mayor. COL/AD/01/007 (Letter Book G), f. 4v. This was common practice amongst the city sheriffs too – they were called to account over the practice in the 1321 Eyre. [cont.]

mayor, certainly in the first century of this period, was responsible for the records of the transactions he oversaw but, at the end of his term of office, was under no obligation to return the bag in which he carried this content around, or hand anything over to the city to archive. Rather, it would seem, the practice was that the court clerks picked items, possibly under mayoral instruction, to record in the city's books either for reasons of import and precedent, or because someone paid them to do so.³⁴ What is certain is that not everything was transferred from the mayor's bag into the records. Further evidence of this comes with the practice of the mayor and aldermen holding inquisitions to clarify transactions that happened in the past but were never committed to parchment.³⁵

CITY RECORDING PRACTICES

In the sixteenth and seventeenth centuries, orphan matters were captured comprehensively. Until that point, what was recorded was incomplete, driven by need or fee or just plain chance, although that does not mean that due process did not take place. The fourteenth and fifteenth centuries were a period of significant change in record keeping – and in legal and administrative practices.

THE OATH VERSUS THE WRITTEN RECORD

One of the first parts of the city's wardship procedure was the point where the guardian must find sureties before the mayor and aldermen. This part of the process relied heavily on the medieval concept of mainprising, the method whereby a person would provide a number of people of good standing to validate his or her good character in front of

The Eyre of London, 14 Edward II A.D. 1321, ed. H.M. Cam (Selden Society, 1965), ii. 113–4; Barron, *LLMA*, 154–5 fn. 44, 160–1

³⁴ On the payment of fees for enrolment of deeds and memorandums, see Chapter 3.

³⁵ Inquisitions were often held to determine the value of a legacy: *CLBD*, 190; *CLBE*, 88, *CLBH*, 29, 30, 255, 350, 365

3: Records and Recording

witnesses and bound by means of an oath. There are many instances of this being noted and recorded in writing by a clerk and, at some point, copied up into the records preserved by the mayor and aldermen. However, there are just as many, if not more, instances where this transaction must have happened but was not recorded.

To understand the true workings of early medieval law, it is necessary to consider the spiritual significance of an oath to the medieval mind. It was a bond made with God before witnesses. To break it would place the soul in severe jeopardy; a risk that any fourteenth- or fifteenth-century citizen would hesitate to take. Consequently, as a binding act, it was absolute, and it could therefore be argued that there was no need for corresponding written evidence unless the parties involved believed there was a need for this. This is suggested by the case of the orphan, Walter Sperham, in 1310. In this instance, John le Botoner, mercer, did risk his soul and denied before the mayor that he had sworn an oath to act as surety in the sum of £120, Walter's inheritance. Clearly no written verification of this existed and it required Richer de Refham, the mayor, to bring his predecessor and ten aldermen who had witnessed the recognizance into court and to declare unanimously, and thus prove, that le Botoner had indeed sworn an oath.³⁶ Similarly, in 1336, the city chamberlain called a jury of twelve men to swear, on oath, that he, the chamberlain, had not taken the property of John de Comptone, accused of absconding with the patrimony of his two wards, into his custody.³⁷

There are several instances where the mayor and aldermen validate a coming of age and consequent claim on patrimony by setting up an inquisition to adjudge the age of the child

³⁶ Le Botoner was committed to prison for having accused the mayor and aldermen of making a false statement. *CLBD*, 183.

³⁷ *CLBE*, 295

on entering wardship.³⁸ The lack of a recorded entry on civic rolls for the start of these wardships suggests that written confirmations were not available for referral on these occasions and that either an oath had sufficed, or the records were not deemed worthy of retaining.³⁹ Or, that the wardship had been initiated simply by a citizen's will.

PROBATE AS PROOF OF GUARDIANSHIP APPOINTMENT

If it is accepted that there was an inherent acknowledgement in the city's wardship process of the principles of civil law, then it is a valid assumption that the proving of a testament or a will, or both, was deemed sufficient as a record of willed (*testamentia*) or next of kin (*legitima*) guardianship appointment. In the case of the former, there is much evidence to support this.

For the wills proved in the husting court, the overlap of jurisdiction between it and the mayor's court (and the identical location in the Guildhall) is relevant. In the husting court, business was presided over by the mayor and aldermen and wills were proved in open court before them. If the will contained the appointment of a guardian, it would seem improbable that the aldermen, unless necessary, would require or record a second appointment of guardian in a separate meeting of their own court. To prove a will in husting, it would be brought to court by two witnesses who swore under oath to the truth of it in the presence of the mayor and aldermen.⁴⁰ The named executors were responsible for getting the will proved, providing inventories and securing its enrolment. If the will of the testator was that a specified person be appointed guardian of his or her children, then the enrolled will was a legally binding record of a guardianship appointment.

³⁸ *CLBE*, 57; *CLBE*, 68; *CLBG*, 56, 136; *CLBH*, 256, 339; *CLBI*, 146

³⁹ See in particular the examples of Alice Strawesburgh, 1388, *CLBH*, 399; John Knot, 1306, *CLBC*, 148

⁴⁰ *Corporation of London*, 84

This is reflected in the records. It does not always follow that when a testator decreed that his testamentary guardian must appear before the mayor and aldermen and have two sureties swear, under oath, to act as guarantor for the patrimony, that a record of such an action is noted in the Letter Books, if indeed it ever happened separately at all.⁴¹ The city procedure for wardship pronounced that the swearing of oaths for surety must be done before the mayor and aldermen in the Guildhall: the same requirement as the procedure for proving a will.⁴² It is a reasonable assumption that the appointment and oath-swearing of sureties would have taken place at the same time that the will was proved and enrolled. Just as the guardianship appointment and the devising of property would be legally bound by the record of the will enrolment, so the swearing of oaths was probably witnessed at the same time.

The theory that the probate process itself was perceived to be a validation of guardian appointment is supported by a case where the city stepped in to provide (and validate by written record) a guardian because a will had not been proved. In November 1310, the will of Peter Adrien, pepperer, in which his wife is the implied, but not specifically named, guardian of the property left to his son, was enrolled in the husting court.⁴³ A marginal note however, declares that the will had neither been proved, nor verified by testimony of the executor, or recorded in court as such. By 30 November, presumably in order to protect the

⁴¹ Known examples where this was stated in a will but no follow up civic entry is recorded: *CWCH* i. 366 (Yonge, 1331), 432, (Camerwell, 1339), 443 (Vincent, 1341), 473, (Baudry, 1344), 501 (Croydon, 1348), 518 (Kyng, 1349); *CWCH* ii. 110 (Stonelee, 1368), 124 (Broun, 1369), 159 (Cavendissh, 1373), 203 (Potenhale, 1379), 306 (Sandherst, 1394); *PCC Logge*, i. 132 (Ravenyng, 1482), 200 (Cardemaker, 1483), 251, (Conderowe, 1484), *PCC Logge*, ii. 124 (Fysshier, 1485)

⁴² This is stated in the testamentary examples above. The swearing of oaths was a very public and consequently a very binding action. See D. Harry, *Constructing a Civic Community in Late Medieval London; the Common Profit, Charity and Commemoration* (Woodbridge, 2019), 62–3

⁴³ CLA/023/DW/01, 39 (72)

inheritance, the property was taken into the city's hands and, in the Letter Book, it is noted that Luke de Havveryynge was temporarily appointed as the guardian of the patrimony and the body of Adrian's son, Thomas.⁴⁴ Six months later, the tenements and the boy were handed over to Richard de Betoyne, a city-appointed guardian, being 'the next friend of the said Thomas on the mother's side to whom the property could not descend'.⁴⁵

Mainprising and the use of sureties, however, became an increasingly outdated method of guarantee as the fifteenth century progressed. It appears that, just as the practice of proof by oath-helpers (or the wager of law) declined in favour of trial by jury throughout the fourteenth century, so, in orphan matters, the swearing of an oath by sureties for a guardian came to be replaced by the payment of a financial fee or bond.⁴⁶

3.3 STATISTICAL ANALYSIS

Having acknowledged that what remains to us is only part of the story (and a story told from the perspective of the city government) there are caveats to the data presented within this study.

The city's perception of what was important to them clearly changed over time. Figure 3.1 above illustrates the difference in the volume of cases captured in the city court records over a period of 220 years but taking these totals at face value is imprudent. A statistical presentation provides numbers, but the context behind them changed over time. The evidence in the Letter Books from the late thirteenth century is sporadic and has to be teased from property transactions. By contrast the decades of the late fourteenth century provide a distinct upturn in detail and numbers of recorded transactions and interventions,

⁴⁴ *CLBD*, 238

⁴⁵ *CLBD*, 190

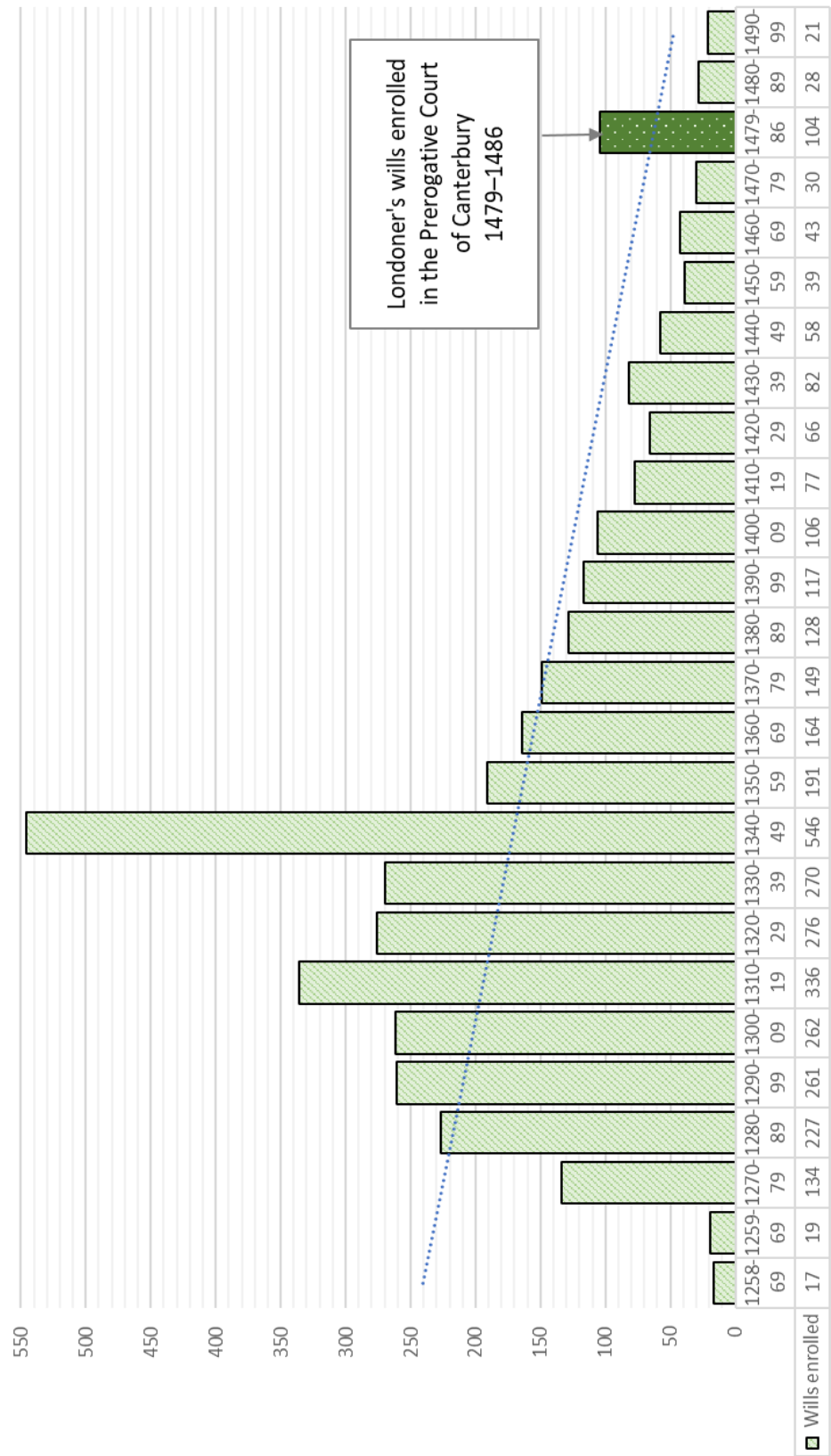
⁴⁶ Tucker, 198–200, 372; *CEMCR*, xxxi – xlv. See Chapter 7.

although not necessarily complete cases. The large numbers of the later fifteenth century consist of recordings of recognisances and bonds with very little detail.

The numbers of wills enrolled also reveal changing practice over the course of the two centuries. Firstly, this is an area where population change pre- and post-Black Death must be taken into account. Figure 3.2 shows numbers of wills enrolled in the husting court between 1258 and 1498. The numbers up to and including 1348–49 far exceed those afterwards. However, this was not just to do with population change. In their earliest form, the recorded husting wills are simply extracts, the *ultima voluntas* part of a testament that dealt with devising property, which the city chose to record separately. By the 1320s they had become full wills and testaments proved and enrolled in this secular court as well as, or instead of (it is unclear) an ecclesiastical one. Then, by the turn of the fifteenth century, most London citizens of substance began to enrol wills and testaments in the Prerogative Court of Canterbury and the number of wills proved in the husting court began to decline rapidly. Statistically then, it is difficult to compare husting will numbers across the two centuries. To counterbalance this to some extent, those London wills contained in the Logge Register of PCC wills (enrolled between 1479–1486) have been used as a sample of later fifteenth-century activity. This context does not make comparison across the period of the study impossible, but it does mean that any statistical study presented here must be accepted with these reservations.

Statistical categories for counting numbers also provide some difficulty. When comparing data from wills with data from civic records, for example, the count must always be by family: wills are never broken down by children or transaction per child. Yet data presenting guardian categories cannot be by family: children often had different guardians from their siblings, or an individual child might have more than one guardian

FIGURE 3-2: NUMBER OF WILLS ENROLLED IN THE HUSTING COURT PER DECADE (INCLUDING THE SAMPLE FROM THE PREROGATIVE COURT OF CANTERBURY)



Sources: *CWCH* i, ii.; *PCC Logge* Register i, ii.

during a wardship. Table 0.1 in the Introduction to this thesis defines the three main categories used for statistical purposes in this study and their count across the sources. Medieval sources rarely stand up to rigorous statistical analysis. At best, they provide an appreciation of a trend or a base upon which to expand an impression. To provide a more contextual, quantitative view behind the statistical form, a number of case studies, using alternative sources presented from a different perspective, have thus been used in appropriate areas of this study.

3.4 CONCLUSION

The thorough and heavily bureaucratic process, with its resultant profusion of detailed and complete civic records, of the sixteenth and seventeenth centuries is very different from the high-level socage/burghage-law rights and customs outlined in Chapter 2. This makes comparison over time difficult, but not impossible. The greater part of this thesis examines change; the slow evolution of the practice that eventually became embodied in the term 'Court of Orphans'. There was considerable change in the courts which governed orphan matters, they and the records they produced evolved over time and that has a considerable influence on the evidence that remains. In the early part of the period, orphan records were not complete (in that all orphans were captured), nor were they whole (in that all details for each orphan were recorded). What this means is of considerable importance to this study because in the twenty-first century, the viewer is only able to see the wardship practice of the fourteenth and fifteenth centuries through a lens: a lens whose perspective was set by contemporary Londoners themselves. This provides a rare and splendid opportunity: the chance to understand the evolution of a civic procedure through the eyes of London's citizens. What remains to us is, by and large, what they *chose* to keep. Over two centuries the records of the city's dealings with orphan matters expanded (and in other ways, contracted)

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and changed, as the citizens developed their awareness of the significance and benefits of this ancient right. What follows then, is their narrative: the story of the evolution of London's court of orphans.

4. COMMON-LAW BEGINNINGS 1258-1349

John, William and Matilda, the children of Alan Godard, are the first city orphans to be recorded in the city's Letter Books. They appear in a transaction recorded on Tuesday 14 January 1276 and captured in Letter Book A

...by the assent of G[regory] de Rokesle, Mayor, and other reputable men of the City of London, the wardship of John, William, and Matilda, children of Alan Godard, was committed to a certain Sarah, daughter of Alexander Haberdas, together with the houses, buildings, possessions, rents, chattels, and all goods belonging to the said children, until they should come to lawful age...¹

Carlton opens his book with this case but makes the mistake of assuming that Sarah was Godard's widow. However, in his will, enrolled in the husting court on 12 March 1275, Godard appointed his wife, Juliana, as the guardian of his children, William, Matilda and Mary (there is no mention of John), leaving them two marks annual quitrent from his tenement in Chepe, and to her, certain rents, along with the custody of his three children.² In the period between the will being written and the Letter Book A transaction, it would seem that Juliana had died, necessitating the appointment of another guardian.³ It is also probable that one child had been born [John] and another had died [Mary]. What appears in Letter Book A nine months later is the first recorded amendment of a guardianship by the city following changes in the circumstances of a testamentary appointment.

¹ *CLBA*, 4

² *CWCH* i. 22

³ It is not known what relationship Sarah Haberdas is to the Godard children, although, as her father acts as a surety, it is possible that she was Juliana's sister.

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But the Godard case is not the first instance of a testamentary guardianship in London's records. In 1259, Ralph Hardell's is the first surviving will that makes mention of underage children left in the care of a wife. In 1272, Thomas le Brun left "all [his] property in London for the maintenance of his sons and daughters except his heir". The rents from the said properties were to remain in the hands of his executors until "provision of 100 shillings can be made to each of them." In the same year, the surgeon, Thomas Cyrugicus, specified that his wife Cecily must inherit his property in London in order to maintain his children, and that they would inherit after her death.⁴ The will of Walter de Kyngestone, poulterer to the king, was enrolled in 1273 before that of Alan Godard, although his widow lived longer. It was not until 1282, that the "wardship of Thomas and Matilda, children of Walter de Kyngestone, was *in full Husting* entrusted to Thomas Clerk."⁵

There is much in the detail of these pre-Godard cases that encapsulates the essence of London citizens' attitudes to wardship in the period up until the Black Death. The evidence strongly suggests that, at this time, the mayor and aldermen were dealing principally with their common law privilege, that of the right to the wardship of any minor inheriting land or property in the city. These earlier transactions dealt with *wardship*: the term is a distinctly common law term and, at the time, was a familiar construct, playing out in the courts of kings, nobility and manorial lords across England. The common law principles of guardianship in socage (outlined in Chapter 2) are strongly identifiable in the records of the pre-Black Death period. Testamentary appointments for real estate, in line with the policy of bestowing guardianship on the next of kin who could not inherit (usually the mother), were clearly in evidence, and was the principal means of early orphan legacy management. The

⁴ *CWCH* i. 3, 11, 13

⁵ *CWCH* i.15; *CLBA*, 50. See too, the will of Geoffrey de Cheswyk, enrolled in 1274, in which he leaves his daughter Margery his house and twenty shillings rent for her marriage. It is probable that she was left in the care of his widow Elysia. *CWCH* i. 18

purely civic choice of a guardian in this probate-driven, common law-influenced early practice, was rare; very few instances were recorded in the Letter Books by comparison with later decades. What is recorded in civic records is also notably different from the post-Black Death period in terms of the language used to capture procedures (and the detail recorded) and interventions, sureties and guardianships were characterised by heavy aldermanic involvement. This chapter will examine each of these points in turn.

4.1 COMMON LAW INFLUENCES.

Penny Tucker makes the point that government in London after 1300 saw the gradual “shift from rule by a patriciate with knightly aspirations to government by merchants with professional administrators to assist them.”⁶ Perhaps nowhere is this change more evident than in the recording and practice of orphan matters over the course of the fourteenth and fifteenth centuries. What was being recorded in the Letter Books in the early decades of this period of study had more to do with the legacy part of orphans’ inheritances than their moveable goods ‘portion’. That part was being dealt with by the ecclesiastical courts and remain largely invisible in the civic records. Wealthy Londoners in the late thirteenth and early fourteenth centuries though, were defined by their holding of property, and both the transfer and the protection of city real estate was the defining constant in an orphan case being recorded in these high-level records.⁷

There is much to illustrate the marked influence of the common law principles of legacy inheritance at this time. Although it is not explicit, it is likely that the very first entry in the Letter Books encapsulates a point of common law. Sarah Haberdas was probably the sister

⁶ Tucker, 25

⁷ Only from the later fourteenth century did the term ‘patrimony’ come to mean the legacy *and* the moveable portion. See Chapter 6.

4: Common Law Beginnings

of the Godard children's mother and therefore their closest relative to whom their father's inheritance could not descend.⁸ In 1300, the relatives of Jakemina Pountif were arguing the tenets of common law when they claimed that the girl's inheritance should not be in the hands of a kinswoman to whom it might descend.⁹

Early civic recordings are liberally peppered with references to the 'next friend' (*proprinquior amicus* or *proprinquiores parentes*) as a wardship principle, usually where the city has stepped in (or been asked to step in) on behalf of a wronged orphan.¹⁰ In 1304, Thomas de Fardone used his position as 'next friend' of the children of Thomas de Oxford, to bring the children's case before the mayor in order to reclaim their inheritance from an absconding stepfather.¹¹ In the cases of wronged orphans, Thomas Adrien, in 1311, and Agnes Laurence, in 1315, the terminology 'next friend on [the] mother's side to whom the inheritance could not descend' explicitly refers to the common law principles which the city was observing in putting matters right.¹² 'Next friend' terminology continues in civic transactions throughout the first half of the century, disappearing from 1354.¹³ It makes a single reappearance in 1373 in the case of the orphan Margaret Donat, when Nicholas Holbourne, her guardian and stepfather, came to an agreement with John Donat and John

⁸ *CLBA*, 4

⁹ *CEMCR*, 77

¹⁰ COL/AD/01/004 (Letter Book D), ff. 84v, 103r. This refers to the principle of socage law wardship whereby guardianship should go to a 'next friend to whom the inheritance might not descend'.

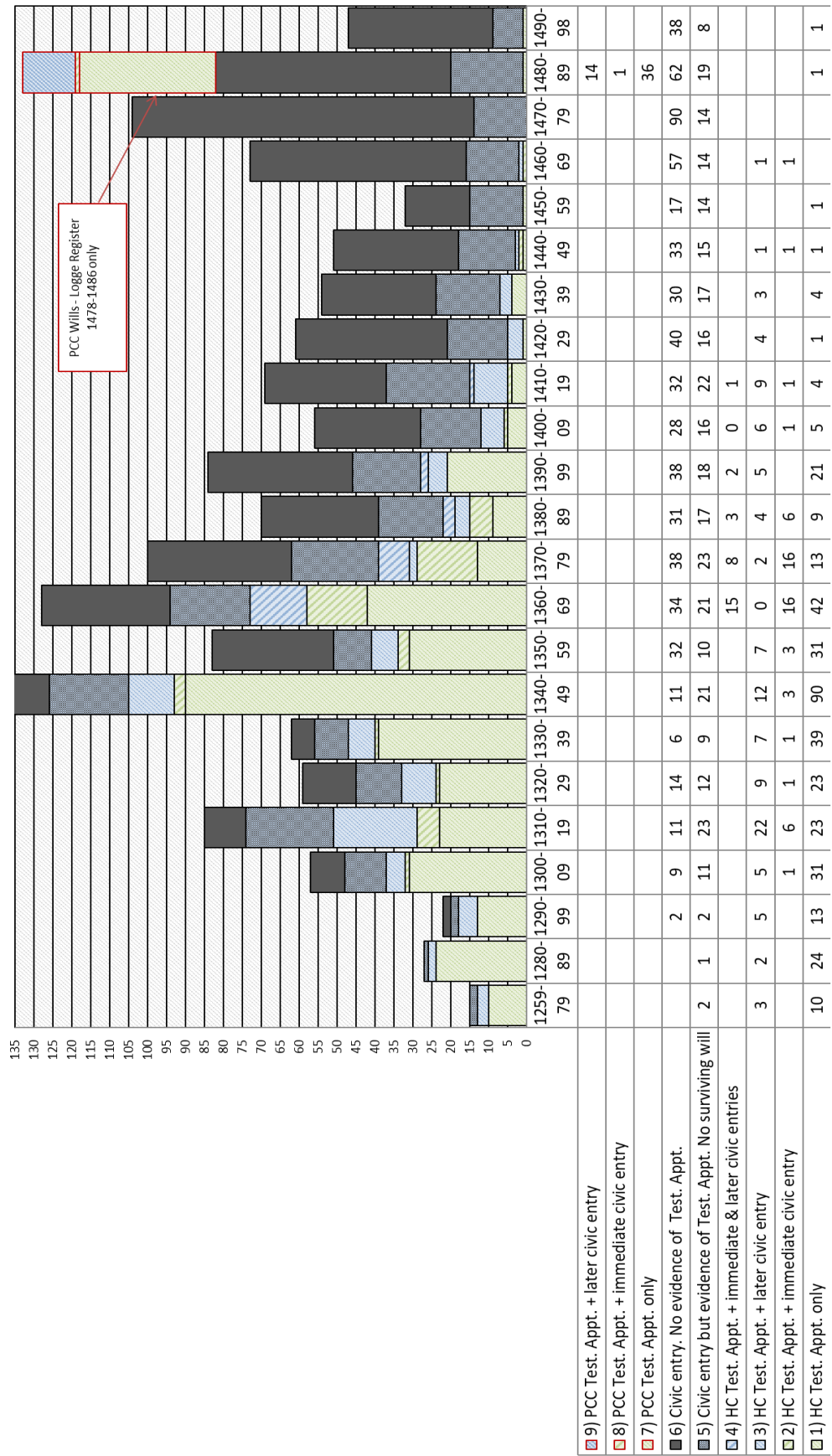
¹¹ COL/AD/01/003 (Letter Book C), f. 124v

¹² COL/AD/01/004 (Letter Book D), ff. 84v, 103r

¹³ *CLBE*, 10, 52, 295; *CLBF*, 115, 248; *CLBG*, 22; *CPMR* 1323–64, 226–228

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FIGURE 4-1: BREAKDOWN OF KNOWN WARDSHIPS (BY FAMILY) IDENTIFIED IN THE STUDY INTO CATEGORY OF FIRST RECORDING



Sources: *CLBA-L*; *CEMCR*; *CPMR* i-vi; *Jor.*, i-iv; *CWCH* i., ii.; *PCC Logge* i., ii. This presentation excludes the 315 wardships in hustling wills where a guardianship is implied but no guardian is named

Trygge, the girl's 'uncles and next friends', over a payment from her inheritance.¹⁴ After that, specifically common law terms are never used again.

4.2 THE WILL AS A RECORD OF GUARDIANSHIP

The timeline of orphan cases in Figure 4.1 shows a very clear pattern. London citizens of the late thirteenth and early fourteenth century who enrolled their wills in the husting court, clearly viewed wardship primarily as a testamentary practice which occasionally required some civic intervention around the city's interests in devised property.¹⁵

In simple terms, category 1 (orphan cases which only ever appeared in a husting court will) and category 6 (those cases which only ever appear in a civic source) are broadly reversed over the two centuries. Even with the caveat of changing procedures, this still illustrates an increased involvement of the city in orphan matters over time. Wardships of propertied children in thirteenth- and fourteenth-century London almost always began as a purely testamentary process; the will remained the primary (and, in the earliest part of the period, the sole) agent of wardship until a turning point in the decade 1380–89 where recordings of

¹⁴ *CLBG*, 315. This is of particular interest in that it is one of the first cases administered under the regime of Ralph Strode, the common sergeant who did much to reinstate the good and proper management of wardship in the city. See Chapter 6.

¹⁵ Here the complexities of statistical representation require a caveat. The data presented in Figure 4.1 represents an analysis of the civic records against guardianships identified in the husting court wills only. However, this might be qualified by the fact that, were the thousands of London's surviving ecclesiastical court wills to be added to this analysis, they could only ever increase the incidences of identified testamentary-only guardianships (category 1) or move a recorded civic transaction from purely black (category 6) into one of the hashed blue categories (3 or 4). Although this would affect the ratio of civic transactions to those originating in wills, it would not change the numeric increase of civic activity over time: the number of instances appearing in the civic records is absolute, regardless of their origin.

husting testamentary and civic guardianships evened out. The city's increasingly efficient and well-defined process for managing orphan affairs took hold early in the fifteenth century. Although the chart shows the husting testamentary evidence petering out to virtually nothing by the 1460s, the addition of the PCC sample suggests that testamentary-only guardianship appointments originating in the church courts must have maintained steady levels throughout the fifteenth century. Nevertheless, the steady increase of numbers in the black category [6] shows that the mechanism of civic administration intervened in wardship at a much earlier point as the century moved on.¹⁶ Even taking the recording practices into account (the lens discussed in Chapter 3) this assessment of husting wills as against civic material illustrates a clear change in how Londoners viewed wardship and approached its management over the period covered in this study.

It is clear that from 1258 up to the period of the Black Death, category [6], the purely civic section of each bar, is very much in the minority. Guardianships in this early part of the study almost always originated in wills and the data shows that very little civic intervention took place.

Of the 464 families for whom any instance of a wardship case is traceable in the sources, between the years 1258 and 1349, a clear majority of 253 (or 55%) left no record except for a testamentary instruction (category 1 on Figure 4.1). In other words, wardships were commonly devised along with real estate and London testators and their families were by and large content to let executors get on with the business of executing their wishes, including the protection of their children.

For a further sixty-two families (13%) who appointed a guardian by will, some transaction relating to the wardship then showed up in the civic records at a stage later in the process

¹⁶ See Chapter 7.

(categories 2, 3 & 4). The majority of the cases that fall into this category (twenty-seven) were changes of guardianship triggered either by the death or remarriage of an orphan's mother, some years after the father's death.¹⁷ But it is notable that the next largest number in this category (seventeen) are actually recorded property transfers or transactions of executor business in which an orphan case is only referred to or implied. For example, in 1284, four years after his will was enrolled, a memorandum in Letter Book A records a transfer of monies, part of the inheritance of the children, between the executors of Ralph de la More.¹⁸ In 1300, Edmund Horn, a testamentary guardian appointed by Walter le Blund for his son John, died. Horn's widow re-married and her new husband, the alderman Hugh Pourte, with the assent of Walter Le Blund's executors, took on the guardianship of the boy. The transaction that appears in Letter Book C is nothing more than a recorded inventory released by them into the care of Pourte. The mayor and aldermen are described as having merely 'surveyed' the transfer.¹⁹ Similarly in 1301 when Gilbert de Marche, the testamentary guardian of the children of John de Stertford, died it was Stertford's executors who requested the mayor to summon the widow and executors of de Marche before him, to render an account for the return of the children's' inheritance.²⁰ One transaction, in 1310, appears to underscore the rarity of the city becoming involved in the appointment of guardianship at this time. As has been shown above, when the will of Peter Adrien could not be proved in the husting court, the mayor took matters into his own hands and instructed the sheriffs to seize all Adrien's property in the city and determine its value.²¹ The language of this entry is most telling; the whole transaction is written up under a quite deliberate

¹⁷ This is examined in greater detail in Chapter 8.

¹⁸ *CLBA*, 57; *CWCH* i. 51

¹⁹ Walter le Blund had died in 1291. *CLBC*, 83; *CWCH* i. 97-8

²⁰ *CLBC*, 92 *CWCH* i. 134

²¹ A marginal note states that this will was void because the court records (and the testimony of Thomas de Ashewelle, the executor) stated that it was not proved. *CWCH* i. 215

4: Common Law Beginnings

heading: *Tenementa capta in manum civitatis que fuerunt Petri Adrian*.²² When a return was made and a yearly value of £18 13s. 8d. confirmed by the sheriffs, they were sent back out to “inquire and report as to the names of the tenants of the property and other particulars”, in other words to do the job usually undertaken by executors. Meanwhile, it was “thereupon considered” by the mayor “that Luke de Haverynge, the chamberlain, should be guardian of the property as well as of Thomas, son and heir of the said Peter.”²³

Testators in this period frequently instructed their nominated guardians to find surety before the mayor and aldermen ‘as is the custom of the city’, but the testamentary appointments of only twelve (3%) families between 1284 and 1349 show a corresponding civic entry to this effect (category 3). This anomaly supports that the act of securing probate and the enrolment of a will sufficed as civic confirmation of a guardian. The husting court acted as the forum for the transfer of land in socage or, in urban terms, in burgage tenure as real estate. Furthermore, it was laid down by ancient custom that for any transfer of land or property in London, if the transaction was recorded in the husting, no other safeguard was required.²⁴ Wills devising real estate were, in this period at least, written into the rolls for no greater purpose than to record the conveyance of land and usually, in the thirteenth century, only the part of the will detailing the bequest of property would actually be

²² “Tenements taken into the hands of the city that were of [belonged to] Peter Adrian”. *CLBD*, 190, 238; *CWCH* i. 215

²³ The remaining cases in this category included: four changes in guardianship at the request of the mother and one occasion when a male child was apprenticed, and his master was confirmed as guardian. The death or coming of age of an orphan account for another ten cases. Four of the wardships initiated in this period do involve intervention and investigation of malpractice by the mayor and aldermen but for all four, the civic intervention occurs in the period after the Black Death and all were instigated by the orphan or orphan’s family rather than the city.

²⁴ *CWCH* i. xxiii

recorded.²⁵ That the city *chose* to write up occasional testamentary guardianships alongside real estate bequests lends credence to the argument that, in this period, civic wardship was regarded by the mayor and alderman as a lands-held-in-socage right under common law. This supports the notion that the verbal process of enrolment (the will was read out in full husting by executors and witnesses, challenge invited and oaths were sworn by executors to fulfil the testator's wishes) also included the oaths of any sureties to a testamentary guardianship.²⁶ In 1308, a telling addendum is noted upon the enrolment of the will of Alan de Suffolk who left the guardianship of his children to his wife, Agnes; "and insomuch as it was proved that the aforesaid orphans were dead, no mainprise was found."²⁷ That the proving of a will included a guardian finding surety, and that the will, once enrolled, sufficed as civic approval of wardship, confirms that this was a time when, for the mayor and aldermen, protecting orphans was simply a part of their wider responsibility to oversee inheritance law and property rights.

4.3 HUSTING OVERFLOW

As the limited recording of the contents of wills shows, and, at a time when pieces of parchment were firmly under the ownership of (and at the mercy of) the administrative habits of the incumbent civic officers, much attention was paid to the preservation of evidence of property rights and transfers.²⁸ It was far more important to the early fourteenth-century Londoner that evidence of ownership and possession of real estate could

²⁵ *CWCH* i. xxvi

²⁶ *CWCH* i. xliii. See also, for example, the will of Matilda de Wallraunt, enrolled in 1289 where an addendum declares that "proclamation was made in the same Husting and there was no-one who challenged." *CWCH* i. 87

²⁷ *CWCH* i. 196

²⁸ See the concept of the mayor's bag discussed in Chapter 3.

be traced, than the recording of the proof of guardianship of an orphan's portion of moveable goods, any infringement of those responsibilities, or even matters such as debt, trespass and abuse.²⁹ The manner in which the fifty-three cases (11%) catalogued up to 1349 in category 6 (which consists of civic entries for which we have no evidence of a preserved testamentary appointment) are recorded is indicative of this: none are clear recordings of guardianship appointment or orphanage procedure. Rather, it is necessary to tease them out from a plethora of pleas of land, memoranda, probate transactions, deed transfers, legal acquittances and acknowledgements.³⁰ In many of these fifty-three examples, the sole evidence of an orphan case *is* that of a property transaction. In 1289, for example, Letter Book A records an acknowledgement of the transfer of the lands and [city] tenements of Sir Reginald de Gingg from William de Hameltone to Walter de Castello, who was to hold them until the heir of Sir Reginald should come of age. The heir is unnamed, but the sureties and responsible guardian of the property are clearly recorded.³¹ The only evidence of the wardship of Margaret Normanville, in 1294, is an enrolled deed of covenant between John Lovetoft and Robert de Basing, whereby the former conveys all lands and tenements bequeathed to Margaret by her father and uncle, and her guardianship and marriage, to Basing, then the alderman of Candlewick Ward.³²

²⁹ Tucker, 12

³⁰ See for example, *CLBA*, 87; 135; *CLBC*, 19, 168, 169; *CLBD*, 215, 224, 311

³¹ *CLBA*, 174

³² *CLBC*, 19; Beaven, 80. That the husting rolls contain the earliest records of orphans is perhaps unsurprising. The practice is very similar to, and may have been influenced by, the recording of minors in the *wezenregisters* of contemporary Bruges. In these, deed transfers were recorded to safeguard the property of heirs in minority. The entries relating to orphan inheritances are not dissimilar in style and detail to those found in the Letter Books. Galvin, 'Poor Tables', 192, 194

Written records also cost money.³³ A series of fees was payable to various officers of the husting court, to the recorder, chamberlain, court clerk and the individual's attorney, for the enrolment of a deed or a will.³⁴ John Carpenter in *Liber Albus* endorsed this practice and notes the exemption of aldermen.³⁵ Both the fee and the aldermanic exemption are evident in these early records of property transfer in which details of civic wardship are buried. In 1305, the deed of release and acknowledgement of a patrimony transfer by an orphan, Robert le Blund, now of age, to his guardian, Adam de Fulham, is specifically annotated to this effect; the record of this procedure, written at the request of Fulham, is marked *nihil quia Aldermannus* whereas the version written immediately after it, at the request of Robert, notes the payment of a fee of 2s 6d.³⁶ Elsewhere, for non-aldermanic cases, fees are recorded against transactions worded as memoranda.³⁷ The term 'be it remembered...' at the start of a transaction concerning orphan matters was used, almost exclusively, only in

³³ Sharpe explains fee payments for deeds enrolled in the husting but it would seem that the city operated a standard charge of 2s. 6d. for citizens wishing to enrol records in the Letter Books. Tucker suggests that entries in the plea and memoranda rolls relating to private affairs had to be paid for by the 1460s. The fees annotated against transactions in Letter Books A-H suggest that this practice was begun much earlier. These begin with a series of annotations against bonds of payment in 1283 in Letter Book A, then pepper the margins of the Letter Books until decreasing notably in the middle of Letter Book G. The last 2s. 6d. payment is recorded in 1375. CLBA, 44; CLBH, 9; CWCH I, xiv; Tucker 10–11

³⁴ CWCH i. xiv. Bohun, 241. A good example is an entry in 1314 when Alice de Astone comes to court and acknowledges receipt of the sum of £30 for the use of eight-year-old Hugh de Astone and, it is recorded, 'she paid the fee to the clerks.' CLBE, 28. See also CLBG, 95

³⁵ *Liber Albus* references Letter Book C where several deeds are recorded, including the Blund wardship case. In the margin where the enrolment fee would appear is the note "*nihil quia Aldermannus*". CLBC, 196; COL/AD/01/003 (Letter Book C), f. 124r; *Liber Albus*, ed. Riley, 31; Barron, LLMA, 143–4. The last annotation for a payment exemption is in 1364. CLBG, 174

³⁶ CLBC, 195. Adam le Blund de Fulham was, at the time, the alderman of Bridge Ward. Beaven, 55

³⁷ See for example, CLBA, 87; CLBC, 198, 200, 202; CLBD, 215, 224, 311. Letter Books A-G are peppered with these small sums written against recorded transactions, not just in relation to orphan matters.

this period and, along with the recorded sums of money, suggests that what was written up was only that which was deemed important enough to warrant the payment of a private fee.³⁸ More often than not, this meant recording details of a child's propertied inheritance rather than anything relating to the children themselves.

This concern about property (rather than the orphan) is further suggested by the evidence that, in this early period, orphan matters were often still being heard in the husting court. The wardships of Thomas and Mathilda Kyngestone in 1282, Gilbert and Margery de Stertford in 1301, and John Garsyl in 1307, were noted as having been given "in full husting".³⁹ In the husting court, in 1307, Gilbert Cros mainprised William Cros, executor of John Middlesbrough, for the sum of £15 to be paid to the latter's orphaned children by Easter next. In 1315, William Caustone delivered a payment to his ward of £60 upon Nicholas le Paumer's coming of age, and in 1322, the orphan Robert le Gaunter came before the mayor and aldermen "in a full husting" and asked them to accept that he was of age and could claim his inheritance.⁴⁰ Even John Potrel, in 1320, with a plea specifically relating to common law wardship, (to beg that the city take the orphan, Robert Garthorp, into their hands after the boy had been placed with guardians to whom the inheritance could rightfully descend, contrary to socage law) brought his case before the mayor and aldermen "in the Husting held for Pleas of Land."⁴¹ For these cases to be commonly heard in the

³⁸ *CLBA*, 87; *CLBC*, 94, 205; *CLBD*, 215, 244, 311; *CLBE*, 10, 204; *CLBF*, 75, 79, 118. The term was only employed again for a short period between 1374–80 when it was used in five cases under the management of the common sergeant, Ralph Strode (see Chapter 6), *CLBG*, 320; *CLBH*, 33, 103, 139, 144, and once in the fifteenth century, *CLBK*, 148

³⁹ *CLBA*, 50; *CLBC*, 33; 208

⁴⁰ *CLBC*, 200, 208, 216; *CLBE*, 174

⁴¹ *CLBE*, 121

husting court suggests a perception by the city at this time that wardship was a matter of common-law land and property management.

4.4 ALDERMANIC CONTROL

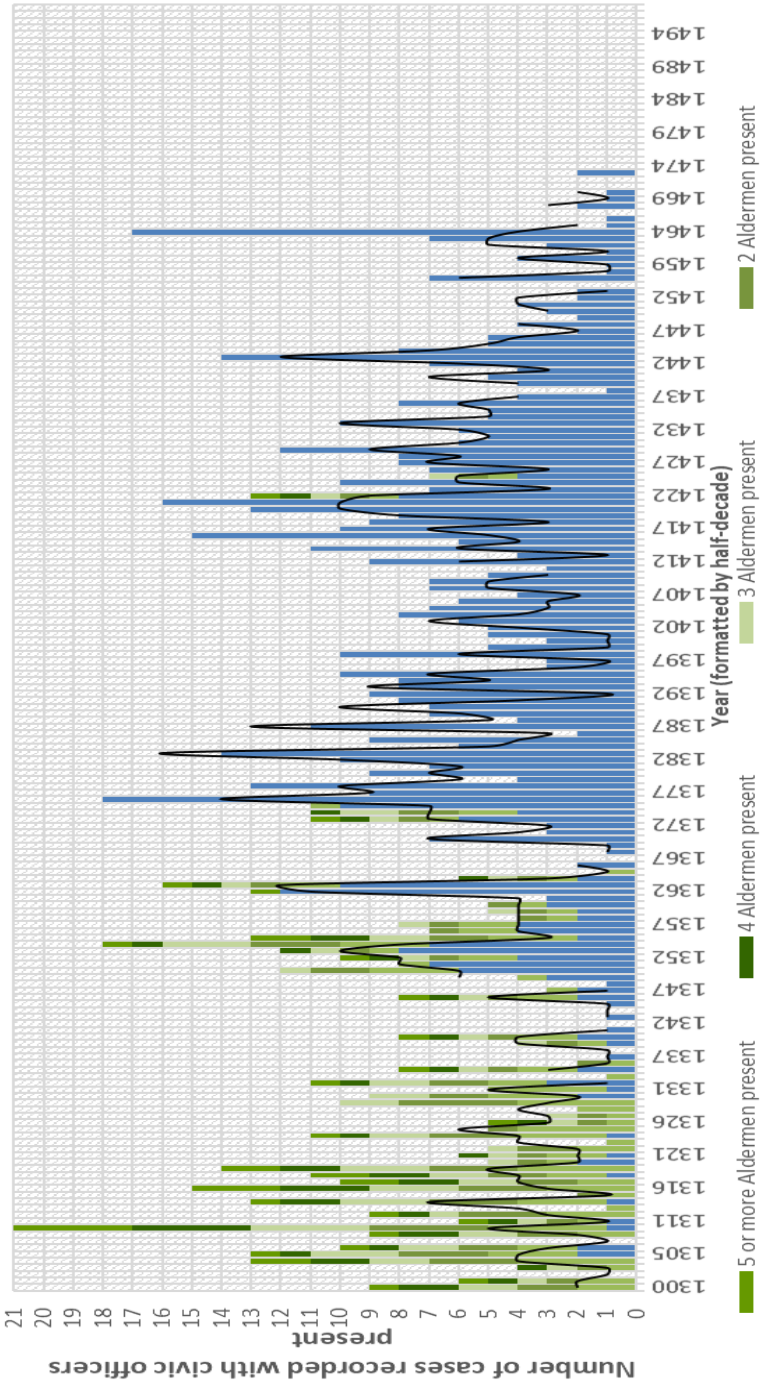
One element of change is particularly notable over the course of the period of this study: the diminishing personal involvement of the city's aldermen in orphan matters. This may be attributable to the lens (what and how orphan matters are recorded certainly changes over time) but it is evident that in the pre-Black Death period, before the rise of a civic bureaucracy, aldermen were far more heavily involved personally in orphan matters than later in the fifteenth century.

COURT SITTINGS

Figure 4.2 shows the change, over the course of two centuries, in the recorded presence, in the Letter Books, of civic officers in cases where orphan matters were heard. The period up to and just beyond the Black Death shows a heavy attendance of aldermen alongside the mayor, changing at a point around the 1370s into cases being heard, or recorded as being heard, in the presence of the mayor and chamberlain.

Aldermanic presence, and its relative importance, is difficult to judge. Aldermen were almost always named as present in transactions involving wardship in the early fourteenth century and yet were notably absent from those recorded in the Letter Books after the

FIGURE 4-2: ORPHAN CASE HEARINGS: RECORDED PRESENCE IN THE LETTER BOOKS OF MAYOR, CHAMBERLAIN AND ALDERMEN IN COURT 1300-1498*



Sources: *CLBA-L*; *CEMCR*; *CPMR* i-vi; *Jor.*, i-iv

*There are no data for beyond 1473 because from this point onwards, orphanage in the Letter Books is recorded only in terms of a contract, a legal recognisance and financial bond, rather than a transaction before civic officers. See Chapter 7.

1360s. This could be a recording issue: by the later fourteenth century, the business of wardship had almost certainly passed from the earlier surfeit of the court of husting and was being heard and processed by the administrative subsidiary of the mayor's court, the court of aldermen.⁴² When the business of orphan matters is captured in the Journals (which exist from 1416), it is acknowledged that the aldermen were present because the records are largely meetings of that court. However, the change in recording practice in the Letter Books still illustrates a point: the city perceived the presence of aldermen in wardship cases differently over time. Aldermen were specifically named in earlier transactions when guardianships were, to all intents and purposes, records of property transfer. It was indicative of their status and responsibility: being named meant that they were recorded witnesses to a legal transaction or land transfer. In the later period, it appears that the recordings in the Letter Books were more written recognitions of wardship at a common law level, under the authority of the mayor, the only Justice of the Peace in the city until the 1440s.⁴³ The chamberlain's presence was key as, from the 1380s, administration of orphan financial affairs passed through his office. It was these city officers who made, enacted, and enforced decisions.

This distinction will be discussed further in subsequent chapters. For this period, it is sufficient to say that the mayor himself was almost always present when guardianships were granted and relinquished, but the recorded presence of multiple aldermen is only

⁴² Tucker, 11, 116, 134. The procedural notetaking for orphan cases certainly fell to the court of aldermen from as early as the second decade of the fourteenth century, although matters of intervention into wardships were still occasionally heard in the mayor's court. There are five cases of wardship recorded in the early mayor's court rolls. All are cases of intervention in an existing testamentary appointment. *CEMCR*, 50, 77, 232, 239. Except for two cases brought during the Black Death, those recorded in the Plea and Memoranda rolls of the later mayors' courts were almost always when an apprenticeship was involved.

⁴³ See Chapter 7.

detectable in the pre-Black Death period. This is perhaps further evidence of the fact that wardship was dealt with as an overspill from the husting court. As early as the London Eyre of 1244, it had been stated that at least six aldermen must be present at the husting in order properly to constitute a court.⁴⁴ It was perhaps the authority of this decree that was being reflected in the early records of wardship when, more often than not, at least six aldermen were named as having been present when orphan matters were addressed. In 1300, the case of Henry Frowyk was heard, albeit on a Friday rather than a Monday, with the full husting court complement of the mayor, twelve named aldermen and one of the city sheriffs.⁴⁵ In 1307, the mayor and twelve named aldermen witnessed the granting of the guardianship of Nicholas le Paumer to the mercer, William de Caustone.⁴⁶ Eleven aldermen were present in 1335 when ten and a half marks of her inheritance was given to Isabella Taverner to enable her to be put to an apprenticeship.⁴⁷ It was not uncommon for six, seven, eight or nine aldermen to be named as present in this period but this was a practice which tailed off. As Figure 4.2 shows, recorded aldermanic presence remained a constant until the 1360s, only coming back into play for a brief period in the early 1370s and the 1420s.

This trend corresponds with the rise in the purely civic management of orphan matters illustrated in Figure. 4.1: as the common law-led testamentary nature of wardship declined and civic administration took hold, the role of the aldermen changed from a 'patriciate with knightly aspirations' to the civic overseers of a bureaucratic process delivered by administrators.

⁴⁴ *CWCH* i. xi-xii

⁴⁵ Husting court sittings were specifically on Mondays and Tuesdays. See chapter 3. *CLBC*, 81-2

⁴⁶ *CLBC*, 200

⁴⁷ *CLBE*, 200

ALDERMEN AS GUARDIANS

On the Wednesday before the Feast of St Dunstan in 1324, the guardianship of Thomas de Tauntone, aged six years, was “entrusted to Henry de Seccheford, alderman, by Hamo de Chiggewelle, the mayor, Nicholas de Farndone, Robert de Swalclife, John Priour, and other aldermen [not named].” This was a temporary appointment. Ten months later, on the Monday after the feast of St Gregory, the guardianship of Thomas was handed over to William Pickerel, a saddler. Thomas’s father, Gilbert de Tauntone, also a saddler, had left a will, in which no surviving wife was mentioned, but in which he had devised his tenement in London to his son. The will was only enrolled in the husting on the same day as Thomas’s guardianship was given to Pickerel.⁴⁸ Evidently, the city had had to step in at Gilbert’s death to provide a guardian for the boy until the will could be proved and enrolled. But what is notable is that they chose an alderman.

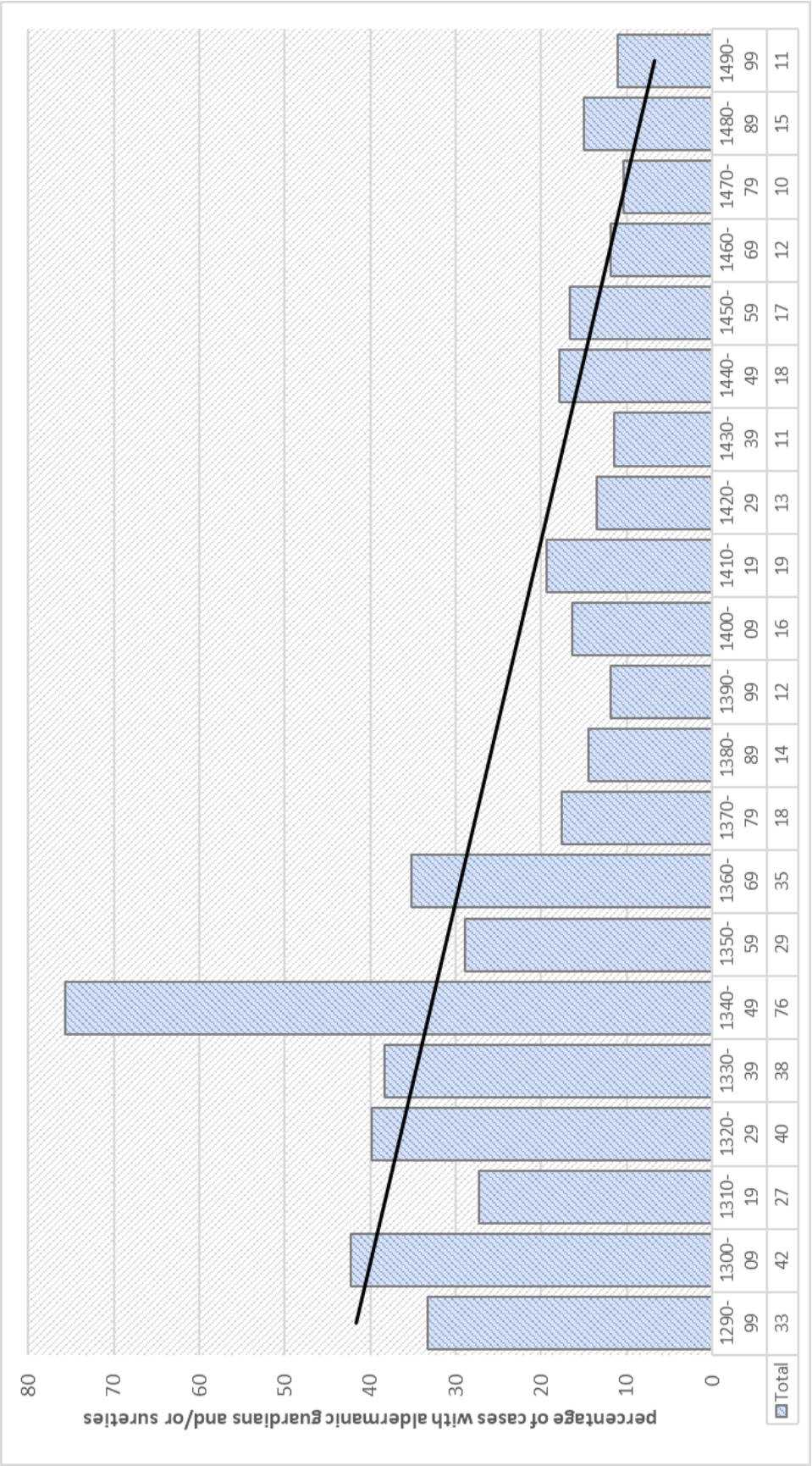
In the pre-Black Death period, aldermen as guardians, or as sureties, were not unusual. Figure 4.3 shows that, from 1276 to 1339, between 30% and 40% of guardians and sureties were aldermen or holders of civic office, rising to 76% in the decade 1340–49.⁴⁹ The chart also illustrates a notable trend; the popularity of aldermanic guardianship or surety was an early fourteenth century phenomenon, hitting its peak during the decade that ended with the Black Death, and tailing off dramatically after the 1360s.

The position of alderman was one of both trust and wealth and it is unsurprising that these men were well placed to act as executors, guardians, and guarantors. As executors, they

⁴⁸ The choice of a fellow saddler suggests that young Thomas’s future apprenticeship was perhaps being considered with the city’s choice of guardian. Although Gilbert de Tauntone’s will describes him as a ‘cellerer’, he is listed as a saddler when he stood surety to John Connale in 1305. *CWCH* i. 313; *CLBC*, 148; *CLBE*, 186–7

⁴⁹ This includes the offices of mayor, chamberlain and sheriff.

FIGURE 4-3: CASES WITH ALDERMANIC GUARDIANSHIP OR SURETY AS A PERCENTAGE OF TOTAL



Sources: *CLBA-L*; *CEMCR*; *CPMR*, i-vi; Jor., i-iv

were an obvious choice as guardians for both testators and city. Richard de Wyrhale, draper, was the alderman of Aldersgate ward when, in 1308, he acted as the executor to the will of Mark le Christchurch. Eleven months later, it was recorded that, by the assent of the mayor and his fellow aldermen, de Wyrhale had received £10 from his co-executor from the estate of Christchurch to “traffic withal, and account for the profits of the same to the mayor and aldermen... for the benefit of Bartholomew, son of the aforesaid Mark.” It would appear that Wyrhale did a good job. In the Husting of Pleas of Land in February 1326, Bartholomew’s coming of age was assessed, allowing him to make an acquittance to Wyrhale for his inheritance.⁵⁰ In August 1325, Peter de Gosbirkirke, draper, found security for 100 marks (the inheritance of John de Abyngdone) before the mayor and aldermen, but by April of the following year was ordered to attend a hearing in the Husting Pleas of Land by the city’s sergeant. At the session, he was instructed to hand over the 100 marks to John Caustone, then the alderman of Lime Street ward, who was acknowledged by the mayor as both an executor to Simon Abyngdone, and as the testamentary guardian of John.⁵¹ Reginald de Conduit, alderman of Cheap ward stood as executor to John de Assheford, a woolmonger who died in 1329 leaving six illegitimate children.⁵² In 1331, the mother of three of them, Assheford’s servant Johanna de Stodleye, handed over £20 of her daughters’ inheritance to Reginald de Conduit to “expend the same for the benefit of the said children.” In June 1336, by which time de Conduit was mayor, he presided over the session, alongside thirteen named aldermen, in which one daughter, also Johanna, claimed her inheritance. Two weeks

⁵⁰ Mark le Christchurch was Wyrhale’s fellow draper. Beaven, 379; *CWCH* i. 201; *CLBC*, 184, 203

⁵¹ Beaven, 383; *CLBE*, 204, 209

⁵² For the city’s stance on illegitimate children and wardship, see Chapter 9.

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later Johanna's husband, John Levyng de Caustone, paid 2s 6d to record an acquittance for his new wife's inheritance.⁵³

If aldermen were popular as guardians, they were even more sought after as sureties. While twenty-five aldermen are known to have stood as guardians before the end of 1349, there are fifty-one instances of aldermen or other civic officers being named as sureties up to that time. The early custom of handing patrimonies to guardians to expend on behalf of the orphan probably contributed to these choices. Aldermen had to be prosperous guildsmen and at the height of their careers to be able to afford to hold office; wealth and a canny head for business was thus a common attribute.

The city too believed that aldermen, or persons of trusted responsibility in civic office, made appropriate interim guardians. In addition to the example of Henry de Seccheford above, aldermen were a *de facto* choice for immediate guardianships when something went wrong. In August 1320, during a gathering of the commonalty for the election of the city's sheriffs, Andrew Horn, the chamberlain, took into the city's hands, a homeless boy, Walter, son of Roger, a cook and, there and then, by the assent of the gathered citizens, was given the guardianship of the boy and his property.⁵⁴ In his will, enrolled in the husting court in 1319, John de Beverley left his wife, Johanna, all his property and the power to sell the same, and an instruction to divide the proceeds between herself and his three children. By 1321 Johanna had died. Her infant son John was placed by the mayor in the guardianship of the city's ex-chamberlain, Simon de Parys who was then the alderman of Cheap ward and an

⁵³ Beaven, 382; *CLBE*, 250, 256. See also the case of Alice de Aylesham in 1349 below who had the draper, William de Welde, alderman of Coleman Street ward appointed as her guardian. Beaven, 107

⁵⁴ *CLBE*, 135; COL/AD/01/005 (Letter Book E), f. 112r. Sharpe uses the term 'vagrant' from the latin '*orphanis vagante*' in the manuscript. However, since Walter had property, it is unlikely that the 'vagrant' should be defined in the modern sense for this case, but rather in its more literal translation of 'wandering' or 'roaming'. In other words, young Walter had no next of kin to go to.

inquisition was ordered into the exact value of the infant's estate.⁵⁵ When Adam de Bures renounced the guardianship of William atte Rothe in 1339, two days later the mayor and aldermen appointed John de Refham, alderman of Dowgate ward, to take his place, an appointment de Refham held successfully until William's coming of age in 1346.⁵⁶

Those in aldermanic office were clearly respected and trusted to play a role in early wardships. But this was not to last. Power and responsibility might also breed complacency and corruption and, as is discussed in the next chapter, four of the next seven aldermen, after Refham, appointed as guardians between 1350 and 1365, came to be involved in the worst cases of wardship exploitation ever to be recorded in London's orphan records.

4.5 EARLY CIVIC ADVANCES

While it remains that in the pre-Black Death period of this study, the mayor and aldermen were primarily concerned with (or at least recording their interest in) legacy wardships, there is some evidence of a growing awareness of the privileges of orphan matters and the need to tighten controls over them in order to retain the benefits.

This was a period in which London was forced, on several occasions, to pull itself up and reform its approach to law, procedure and record-keeping. Gwyn Williams claims that when Edward I took the city into his own hands (1285–98), the new king's men 'moved in with a zeal for organisation and a sense of mission quite alien to civic tradition'.⁵⁷ City law and customs were thoroughly overhauled and 'in all fields, much more attention than ever before was paid to system and record... It was an abrupt modernisation whose cumulative

⁵⁵ *CWCH* i. 283, *CLBE*, 145, Beaven, 99

⁵⁶ Beaven, 166, *CLBF*, 35

⁵⁷ G.A. Williams, *Medieval London from Commune to Capital* (London, 1963), 255

effects were far reaching'.⁵⁸ The threat of crown intervention into ancient rights arose again with the 1321 Eyre. Although the last Iter to be held in London, it was the worst in terms of thoroughness. It ran for five months, raked through fifty years of administrative records and wrung justification out of the city for every last one of its ancient customs and privileges.⁵⁹ It is perhaps not surprising that London governments reacted to both of these painful experiences by overhauling civic record-keeping and by reviewing the administration of their valuable rights and customs.

This appears to have occurred to some extent with the matter of city orphans. It may account for the upsurge in the number of wardships appearing in husting and civic records after 1300: certainly, orphan business, in terms of the number of transactions recorded in the Letter Books, increased notably from the turn of the fourteenth century (Figure 4.4).

It was in the late thirteenth century that the civic office of common sergeant (that role which would become so pivotal to the early modern court of orphans' procedures) was first introduced. Ralph Pecock held the office from c. 1293–1301 but then no incumbent is named in surviving records until Gregory de Norton was 'elected Common Pleader of the city' in 1319 with a salary of 100s (£5) a year.⁶⁰ The common pleader, known more commonly as the common sergeant in later records, was a legally trained official, elected by the commonalty, whose job it was to plead on their behalf in the city courts and especially, to defend the rights of city orphans. Little is heard of this office until the later fourteenth century, but it is perhaps indicative of a move towards tightening administration around

⁵⁸ Williams, *Commune to Capital*, 255–6

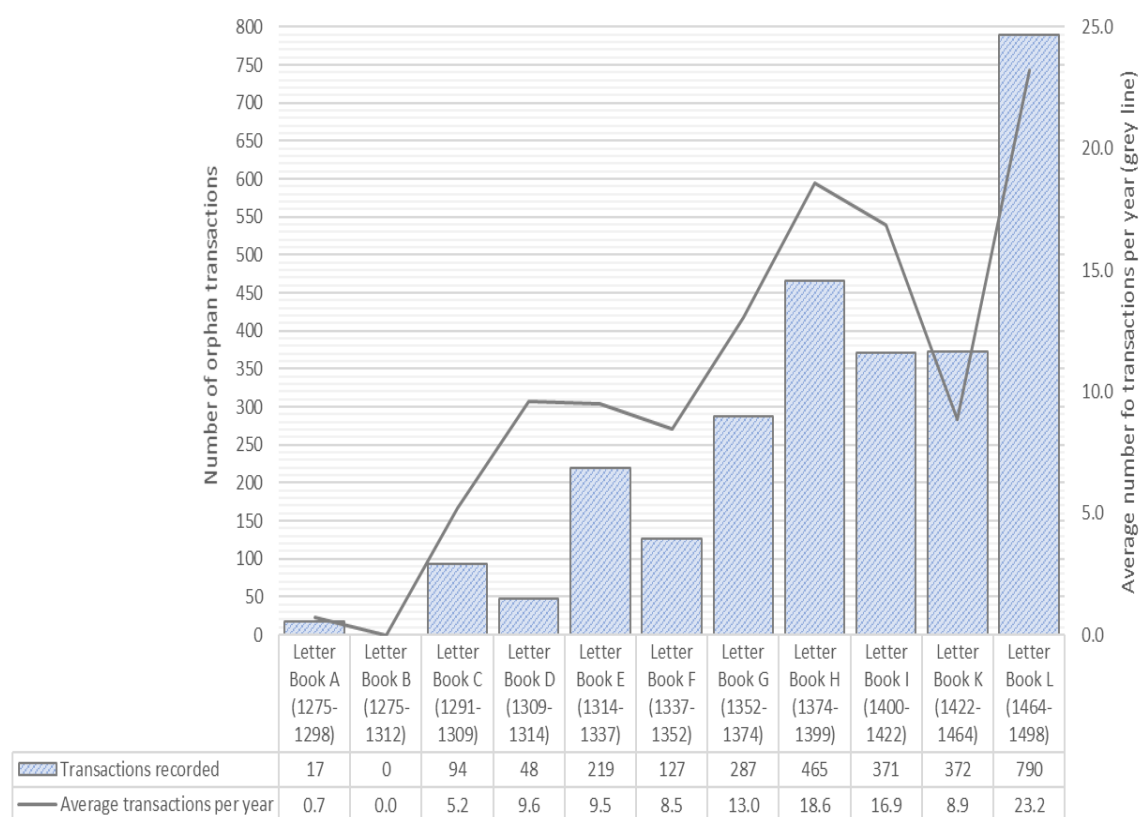
⁵⁹ Williams, *Commune to Capital*, 286–7

⁶⁰ The casual reference to the title of the office suggests that it was already an established role. *CLBE*, 20; Barron, *LLMA*, 359

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orphan matters that it was introduced in this period.⁶¹ Perhaps more importantly, two significant declarations of London's policy on orphan matters were also recorded in city customals in this pre-Black Death period.

Figure 4-4: The Business of Wardship: Orphan Transactions by Letter Book



Sources: *CLBA-L*; *CEMCR*; *CPMR* i–vi; *Jor.*, i–iv

The folios included by John Carpenter in the 1419 *Liber Albus* which contain the re-iteration of the 1244 Eyre city statement on wardship were taken from either *Liber Custumarum* or *Liber Legum*, both of which were compiled by Andrew Horn, the city's chamberlain from 1320–28, at some point during his tenure of civic office.

More significant though was the policy declared in the 1330s in Henry Darcy's Customal.

Known only by this name, this tome was probably compiled at some date prior to or during

⁶¹ See Chapter 6.

4: Common Law Beginnings

Darcy's mayoralty of the city in 1337–8 but has since been lost.⁶² In the 1470s, using London as a precedent, the town clerk of Bristol copied parts, including those which documented London's wardship principles, into his *Maire of Bristowe's Kalendar*. There, the statement, on 'de garde dez orphanyns' lists six points of policy. The first declares that London has the wardship rights of all freemen's orphans, even if the citizen held lands outside London. The second, that a guardian must save and maintain all lands, tenements, goods and chattels of an orphan with all profits and appurtenances. Third, that that guardian will find surety in the chamber of the guildhall and will manage the lands, tenements, goods and chattels of the orphan until they come of age or are deemed to have mastered a trade by the word of the mayor and aldermen, when the guardian will render account. Fourth, that this applies, unless otherwise ordained, for guardians appointed in testaments. Fifth, that no orphan might be married without the consent of the mayor and aldermen. And sixth, that any child of a living father who has lands or tenements devised to him will be in guardianship in the same manner with the father acting in that capacity and finding surety, etc.⁶³

Darcy's *Custumal* took the 1244 policy several steps further. It reiterates the common law responsibilities of the guardian but for the first time enshrines the policy that a guardian must find security for the wardship. It maintains the socage and burgage law right of the mayor, as liege lord, to hold wardship and marriage, but goes further to state that no other liege lord to whom a freeman is bound by ownership of land or property outside the city,

⁶² H.T Riley and Lucy Toumlin Smith suggest that it may have been the lost *Magnus Liber de Chartis et Libertatibus Civitatis* which was known to be in existence in 1327. *Liber Albus*, ed. Riley, xvii; *CEMR*, xxvi; *The Maire of Bristowe Is Kalendar*, ed. L.T. Smith (Camden Society, 1872), xxi

⁶³ Smith, *Maire of Bristowe*, 99–100. The text is in Anglo-Norman.

may make a claim on wardship rights pertaining to London lands and tenements.⁶⁴ It re-confirms the civilian legal tenet of testamentary guardianship (in both the frequent mention of goods and chattels alongside land and tenements and in the specific reference to guardians appointed by will) but introduces the new concept of fathers as guardians. This latter, in the 1320s, may have been a recent development but from the mid-fourteenth century onwards, the policy of a father acting as guardian to an inheritance seems to have been accepted and adopted, with numerous instances appearing in the Letter Books.⁶⁵ All six points of policy are far more detailed than anything that is known to have been written into city registers or custumals before.⁶⁶ Whether in response to the interventions by Edward 1 and Edward II or not, it did seem as though London was making an attempt to straighten out its position in relation to orphan matters and to tighten up recording practice and administration in the 1320s and 1330s. However, before these changes could really evolve into smooth administrative practice, the city was plunged into a catastrophe that would have significant consequences on the business, and the practice, of wardship.

⁶⁴ This point was enshrined in the Bristol charter of 1188. Given Bristol's tendency to follow London's example, it is possible that this principle had long been held as part of the city's ancient custom.

Bateson, i. 145

⁶⁵ *CLBG*, 158, 188, 229; *CLBH*, 45, 119, 297, 410; *CLBI*, 82; *CLBK*, 166, 238; *CLBL*, 127, 155, 177, 195, 248

⁶⁶ What is notable is that, although other parts of Darcy's Custumal were used and copied by Carpenter into the 1419 *Liber Albus*, this list, although more detailed than the 1244 statement, was not. William Kellaway has identified the source of almost every folio used by Carpenter to compile the *Liber Albus*. Darcy's Custumal is named on ten occasions, but none refer to this guardianship piece. This anomaly is discussed further in Chapter 7. W. Kellaway, 'John Carpenter's Liber Albus', *Guildhall Studies in London History*, 3 (1978), 72, 77–79, 82

4.6 THE BLACK DEATH.

This early period of wardship is separated from the rest of the fourteenth and the fifteenth century by the Black Death. This devastating plague, and its impact on many aspects of London's development, has been written about in some detail.⁶⁷ However, its effect on London's exercise of the customary privilege of wardship has not been discussed. The next three chapters will examine in some detail how this disaster caused havoc in what had been the exercise of an almost feudal, patriarchal wardship practice, and forced Londoners into changing the way in which they understood, viewed and managed city orphans.

For all its substantial shockwaves, and the horrific fear and death that it brought at the time, it has to be said that the records of city government used in this study are remarkably steady and continuous throughout the fourteen months (between October 1348 and December 1349) that the pestilence was at its worst in London.⁶⁸ Civic machinery ground on. Barney Sloane's analysis of the meetings of the courts of the mayor, aldermen and the husting shows that, the mayor and aldermen met, in some capacity, an average of five times a month.⁶⁹ Civic business continued. The hearing of pleas, enrolment of deeds, property assignments, changes in civic officials and the swearing in of new officers, mercantile certifications of measures and carriage and prices are all recorded, as are the appointments of guardians and the management of orphan cases.⁷⁰

⁶⁷ The most detailed and recent is, Sloane, *Black Death*.

⁶⁸ Sloane dates the worst of the plague in London from November 1348 until July 1349 with numerous further spikes evident until March 1350. This study uses those parameters for all analysis. Sloane, *Black Death*, 84

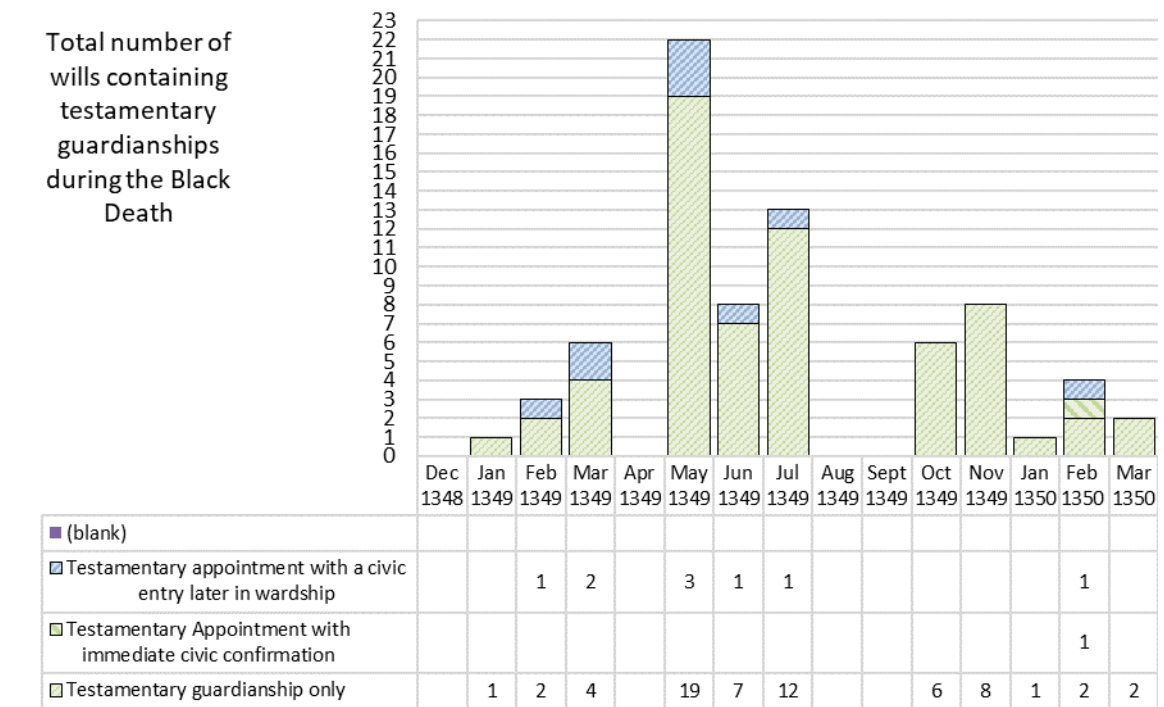
⁶⁹ Over the course of the fourteen months though, the mode Figure is 3, (and dipped to 2 in April 1349) reflecting a slowdown, but not a total incapacitation of civic government. Sloane, *Black Death*, 88, Table 2.

⁷⁰ Sloane, *Black Death*, 88

TESTAMENTARY GUARDIANSHIP DURING THE PLAGUE MONTHS

Records of testamentary guardianship account for the majority of all wardship business conducted throughout these months (Figure 4.5). A total of seventy-three guardianships were devised by London testators during the period January 1349 to March 1350. Through these it is possible to trace the fate of children being passed from guardian to guardian as family and household members died successively around them.

FIGURE 4-5: LONDON WILLS (BY DATE OF ENROLMENT) CONTAINING TESTAMENTARY GUARDIANSHIPS DURING THE PERIOD OF THE BLACK DEATH:



Source: *CWCH i; CLBF*

The infant John de Stebeneth had already lost his parents and was in the care of his paternal uncle by March 1349. When that uncle, John Frank, died somewhere between 6 and 25 March of that month, John was passed under testamentary guardianship into the care of his

uncle's master, Richard Kysser. Kysser himself then died in May making Avice, his wife, John's guardian.⁷¹ Nothing more is heard of Avice or John.

Twelve-year-old Thomas Wirlyngworth fared even worse. His father, the goldsmith Nicholas Wirlyngworth, drew up his will on 1 May 1349. He must have died quickly, for in her will drawn up two days later, Thomas's mother, Johanna, describes herself as 'late wife of Nicholas'. Johanna made provision for Thomas, devising the custody of the boy and his real estate inheritance to John Bret. Bret, however, had died by October 1349 and devised the boy's guardianship onwards to his own wife, another Johanna, meaning the boy had been in the care of four adults, and two households, in the space of just five months. More change was to come. Nicholas Wirlyngworth's will was not enrolled and proved until July 1350 which may account for a further guardianship change for Thomas.⁷² In September of that year, his father's estate settled, the boy and his patrimony passed into the custody of John Hiltoft, another goldsmith.⁷³ Thomas was thirteen by this time and it is likely that he was apprenticed to Hiltoft; he came of age in 1358 with the same trade and married the daughter of John Ippegrave, one of a family of goldsmiths.⁷⁴ All of these transactions, with the sole exception of the transfer of the guardianship of Thomas Wirlyngworth to John Hiltoft, were enacted solely by the testators' wills, with no corresponding record of wardship appearing in the Letter Books.

⁷¹ John's father, William de Stebbeneth, died intestate or his will has not survived. Frank's will was written on 6 March and enrolled nineteen days later. Kysser wrote his will on 4 April and it was enrolled on 6 May 1349. *CWCH* i. 536, 568

⁷² Johanna Wirlyngworth and John Brent's wills were enrolled on the same day in October 1349. *CWCH* i. 605. Nicholas's will was finally enrolled on 27 July 1350. *CWCH* i. 635

⁷³ Hiltoft's guardianship of Thomas was awarded by the mayor in September 1350, further suggesting this was a move into apprenticeship. *CLBF*, 222

⁷⁴ One of Hiltoft's sureties was the goldsmith, William Ippegrave. Thomas Wirlyngworth died aged around 28 in 1364/5 leaving three stepsons by his wife, Cristina Ippegrave. *CWCH* ii. 86–7

Of the seventy-three testamentary guardianships, only one was recorded as having been confirmed immediately in the civic records and even then, the transaction in the Letter Book reads more like a recorded acknowledgement of the enrolling of a will. On the same day as Alice de Hackeneye's will was enrolled in the husting court, a Monday, a terse entry in Letter Book F merely notes that the guardianship of Alice's daughter, Isabella was committed to Richard, the child's brother, as devised by their mother in her will. It is very likely that this was a chance civic recording of a guardianship captured during the enrolment of a will by a vigilant clerk.⁷⁵

What is more notable (and evidence that the impact of the plague years resulted in the city's increased appreciation of the value of its wardship privileges) is that, of the nine testamentary wardships recorded during the plague which showed up in civic records in later years, six of these later recordings were instances of investigated corruption.⁷⁶ The most dramatic of these are discussed in detail in Chapter 5 and are the cases of Alice de Leche, Agnes Atte Holte and Richard Haryngeye, and of John Pecche as a guardian.⁷⁷ But even the remaining two required intervention, inquisition and detailed accounting of the expenditure of the patrimony. The case of Isabella Mymmes illustrates the overlap of testamentary appointments in a period where mortality was very high. In his will drawn up in March 1348, John Mymmes devised the guardianship of his daughter Isabella to her mother, Mathilda, but made the cautionary stipulation that should Mathilda die, the guardianship must pass to Robert Osekyn pepperer, one of his executors. Mathilda,

⁷⁵ *CWCH* i. 625–6. *CLBF*, 203

⁷⁶ Of the remaining three, one was the transfer of guardianship to a stepfather following a mother's rapid re-marriage, one was a transfer to apprenticeship and another a property transfer in the Husting for Pleas of Land. *CLBF*, 194; *CLBG*, 56

⁷⁷ No evidence of malpractice is recorded for Pecche's guardianship of his grandchildren, but it is curious that it took him until 1365 to come to court and declare that they were both dead. *CLBF*, 211

4: Common Law Beginnings

Isabella's mother, died about a year after her husband: her will was enrolled in May 1349. In it, she makes provision for her apprentice, William to pass into the 'care and teaching' of brother Thomas de Aylsham of Bermondsey Priory, but makes no provision for Isabella. Presumably, she intended Osekyn to have the wardship. Osekyn however, died at almost the same time. Isabella may have remained in the care of Osekyn's wife, also called Isabella, who had the testamentary custody of his own daughter.⁷⁸ However, in 1353, when young Isabella would have been twelve years old, the mayor and aldermen committed her guardianship, or perhaps just guardianship of her patrimony, to Thomas Staundone, a coffrer. The city became suspicious of Staundone's motives and activities and he was made to account thoroughly for his expenditures in a detailed entry in Letter Book G in 1355. Isabella came of age in 1362 at the age of twenty-one and claimed her inheritance, but nothing else is known of her.⁷⁹ William Hanhampstede, pepperer made his wife Alice and his eldest son, also William, guardians of the five children left underage when he died in April 1349.⁸⁰ When Alice died, William acted as her executor too, but in 1353 was charged with having retained property and monies belonging to his five younger siblings. A thorough audit was conducted, and he was found to be £240 in arrears to the children; a sum he is recorded as having paid to the chamberlain in six quarterly instalments.⁸¹

⁷⁸ Having the same name perhaps suggests that Roger and Isabella Osekyn were young Isabella's godparents. John de Mymmes' other executor, Gilbert of Wendover, also died in 1349 (I am grateful to Caroline Barron for the details of executors). *CWCH* i. 558, 560, 576, 613

⁷⁹ The detail of the rendered account is squashed into a small space in the manuscript beneath the original guardianship appointment but is not included in Sharpe's calendar. COL/AD/01/007 (Letter Book G), f. 6v, *CLBG*, 8, 145

⁸⁰ *CWCH* i. 598

⁸¹ COL/AD/01/007 (Letter Book G), f. 6v

CIVIC TRANSACTIONS DURING THE PLAGUE MONTHS

Figure 4.6 shows the breakdown of the cases recorded from the perspective of the city during the Black Death months.

Most of the hearings originated from testamentary appointments in husting wills or wills that have since been lost, were never enrolled and, in the case of at least one, was nuncupative.⁸² Seven purely civic appointments also suggests that the city was having to step in to appoint appropriate guardians for children left vulnerable by the rapidly changing circumstances wrought by so many deaths.⁸³

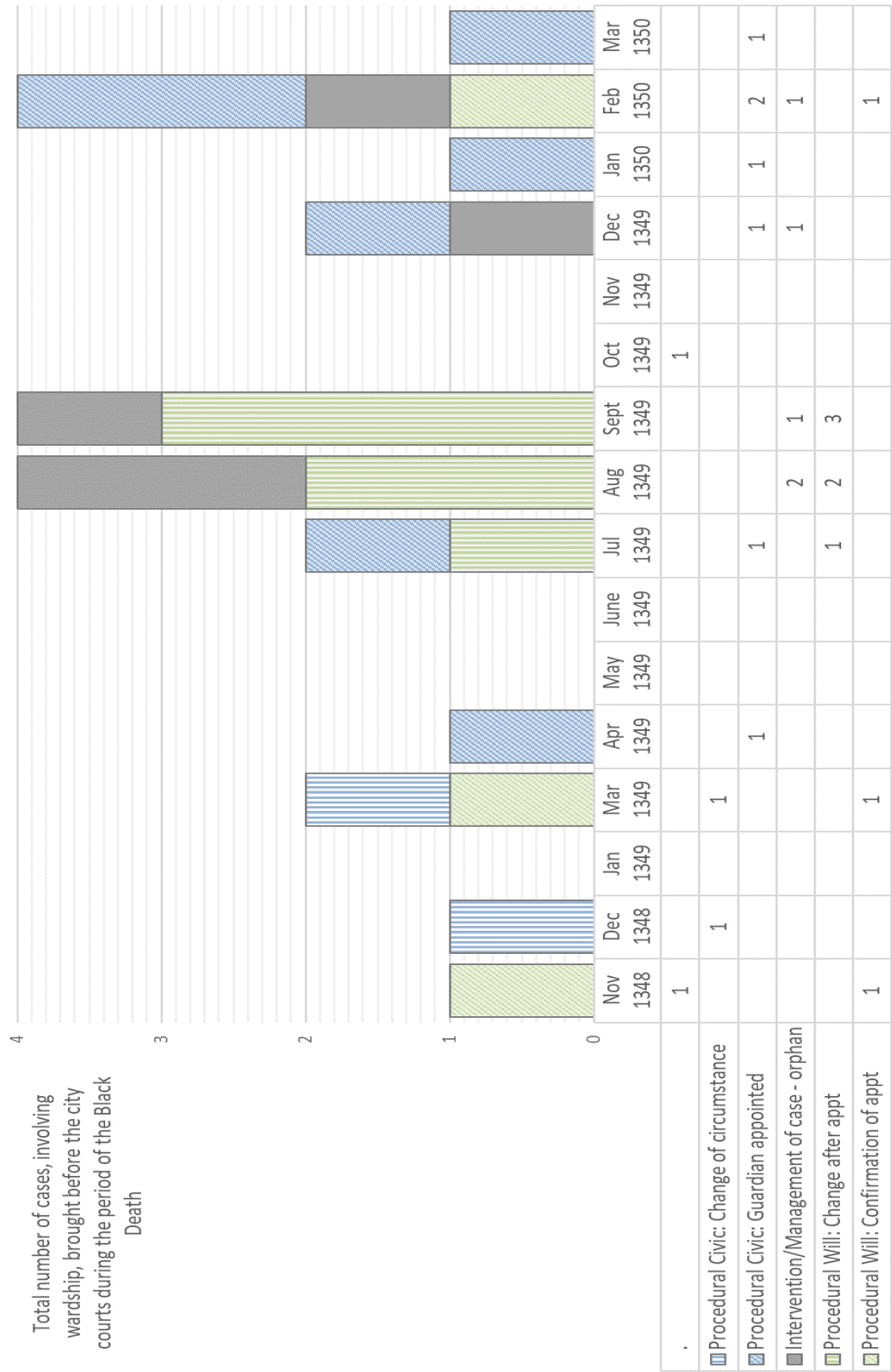
The mayor and aldermen were clearly cognisant of the risk posed to vulnerable children during this time. Two of the city cases appeared first as pleas for intervention in the mayor's court, before being recorded in the Letter Book. William Stoke, a tailor, brought a case on 24 August 1349 as the 'next friend' of Juliana and Margery de Sellyngge accusing John de Cantebrigge, a chaplain (who was an executor of Henry de Asshbourn, in turn, an executor of their father) of detaining the girls' patrimony. The mayor set a jury to investigate and Cantebrigge was ordered to pay the account in full. In the course of the investigation, two others, Robert de Hygeston and Simon de Chikesond, were accused by two other executors of Asshbourn of carrying off valuables bequeathed to the Sellyngge children. Hygeston and Chikesond were found guilty and committed to prison. In the court of aldermen session of 14 September, guardianship of the girls was committed to William Stoke.⁸⁴ A similarly

⁸² *CLBF*, 207

⁸³ Plasterer, *CLBF*, 189, Burdeyn, *CLBF*, 193, Parmenter, *CLBF*, 199, Mede, *CLBF*, 201, Pycot, *CLBF*, 202, Isselham, *CLBF*, 203, Canterbury, *CLBF*, 204

⁸⁴ *CPMR* 1323–64, 226, 228; *CLBF*, 195

FIGURE 4-6: LONDON CIVIC ENTRIES RELATING TO WARDSHIPS MATTERS DURING THE PERIOD OF THE BLACK DEATH.



Sources: *CLBF*; *CPMR* 1323–64

complex web of deceitful executors was unravelled following a complaint brought before the mayor's court in September 1349, by William Spersshore, regarding the inheritance of Ellen de Parmenter. Spersshore, too, was made Ellen's guardian in December – an appointment ratified and recorded in the court of aldermen.⁸⁵

These, and other cases where city officers sought to untangle wardships and return inherited goods (and the fact that they were carefully recorded with some remarkable continuity during the havoc of pestilence) illustrate that, at this time, it was not just the recording of property transfers within patrimonies that was of importance to the city. The children themselves mattered. With the city's population all but halved, surviving children, as well as their property and capital inheritances, were just as valuable an asset for plague-ravaged families and craft guilds. The city seems to have begun to recognise the sense of stepping into the testamentary process that had previously governed city wardships and, where needed, of taking charge.

The shockwaves of the 1349–50 pestilence would, however, continue to reverberate through the half-century that followed. London's mayor and aldermen may have been forced to open their eyes to the responsibilities that the civic privilege of wardship placed on them during the Black Death, but it was only in its aftermath that civic accountability was really tested.

⁸⁵ *CPMR* 1323–64, 227; *CLBF*, 199. It is of note that the plea for intervention – the judicial element of the case – was recorded in the mayor's court records, while the more routine and procedural appointments of Stokes and Spersshore were recorded in the Letter Books. See Chapter 7.

5. THE IMPACT OF PLAGUE 1349-1374

Richard Elys was no more than an infant and already fatherless when the Black Death took his mother in 1349. Johanna Elys and John, her son or stepson, fell victim to the plague within weeks of each other, leaving Richard and a sister. Although Richard's father, John, died intestate (or his will was not enrolled/has not survived) Johanna Elys had time to write hers.¹ She devised tenements in equal portion to both her young children and willed that they and the property be left in the care of her mother, Cristina.² It is probable that the plague consumed Richard's grandmother too, and his sister, for at some point before 1361, he was taken into the care of Walter de Chedyndon who had no obvious link to the family other than being resident in the same parish of St Dunstan in the West.³

This shift of guardianship is known only because, as the second wave of plague hit the city in 1361, Richard, still underage, lost another guardian. Chedyndon made provision for him in his will enrolled in the husting court on 25 July 1361. In it, he devised the boy's wardship and inheritance to John Deynes, an ironmonger living further east in the parish of St Olave, Jewry, with instruction for Deynes to use the patrimony to provide maintenance and a

¹ *CWCH* i. 515. Johanna and the younger John Elys wrote their wills within three days of each other on 2 and 5 February 1348. It is possible that the elder John's death triggered this. Johanna's will was enrolled on 25 Jan 1349 and the younger John's on 24 February.

² The fact that his mother left Richard and his sister in the care of their grandmother when an adult brother or half-brother was still alive at the time her will was written would suggest that the two children were very young.

³ Chedyndon's appointment as guardian, if it was made or confirmed by the city authorities, does not appear in the civic records. It is more probable that the grandmother died during the plague year too and Richard's case is an illustration of how citizens took it upon themselves to care for the orphan children of their friends and fellow parishioners during these extreme times. Chedyndon was of the parish of St Dunstan in the West, where Richard Elys's family had been buried and where Chedyndon's father had a chantry. He requested burial there 'with his children'.

5: Impact of Plague

suitable marriage for the boy.⁴ Though there is no civic confirmation to substantiate it, Deynes did take on the guardianship and he also took Richard on as an apprentice. There is no record of the young man coming before the court of aldermen to request his patrimony and it is probable that he was only just out of minority when, as the plague hit the city for a third time in 1368, he died himself.⁵ Richard's will, in which he left ten pounds to John Deynes, his 'lord and master', was enrolled in the husting court in June 1368.⁶ Deynes and his son Henry, Richard's second adoptive family, had both died by October of the same year. The property bequeathed to Richard by his mother was given to provide a secular priest for the celebration of his soul and, although Richard Elys left bequests to the Deynes family's parish church, St Olave, Jewry, where he had presumably lived and worshipped during his apprenticeship, he requested burial in his childhood parish of St Dunstan in the West, next to his parents.

In spite of a wardship spanning nineteen years, three different guardians, the likely death of his sister and thus consequent change to his inheritance, and a possible coming of age, no aspect of Richard's case is recorded in the municipal records of the city. And yet Richard was well cared for, found a trade and his inheritance was protected.

Richard's case is not unusual at this time. During the period of exceptionally high mortality stretching from the onset of the Black Death in 1348 through the plague outbreaks in London of 1361 and 1368 and, intermittently, throughout the rest of the fourteenth century, the evidence for orphan care is unprecedentedly rich in detail where it exists, but generally,

⁴ *CWCH* ii. 44

⁵ Although plague was resurgent throughout the second half of the fourteenth century and into the fifteenth, three intense periods have been identified as having had a particular impact on the city: November 1348-July 1349 with some further spikes through to March 1350; April-October 1361 and May-October 1368. Sloane, *Black Death*, 84, 136, 142

⁶ Richard's will was written on 26 May 1368 and enrolled just nine days later, on 4 June. *CWCH* ii. 106

startlingly absent. By using supplementary material from the city's possessory assizes, it is possible to find examples of city orphans whose inheritances were singularly abused but who never appear to have had the protection of any civic intervention. Where the city government did step in, it seems to have done so more because of the mismanagement of patrimonial financial affairs. Abuses in general were on the increase, particularly that of the underage marriage of orphans to the advantage of the guardian. And yet, beneath all this, the richness of testamentary evidence in this period illuminates a benevolent pattern of underlying family, household, community and craft care that became much less apparent (or more difficult to trace) in the fifteenth century. Using a number of case studies to examine such instances, this chapter will show that, although the third quarter of the fourteenth century saw a near collapse in the civic policy to protect all children of citizen fathers from abuses of wardship, this was nonetheless coupled with a burgeoning stream of evidence for an unofficial, but beneficent, policy of local care. Was the latter driven by increasing corruption in officially managed wardships, or a simple inability to cope in overwhelming circumstances and a response to crisis?

5.1 UNDERLYING CARE NETWORKS

What is apparent is that, on the whole, the children themselves were not neglected. They were valuable. The administrative struggle to cope and the resultant abuses around patrimony management will be examined below but, by and large, Londoners, whether in civic office or not, were careful to protect underage children by placing them wherever possible in an environment that would be familiar to them. These choices were strongly benevolent. As the Richard Elys example above demonstrates, mothers were deemed to be critical to the survival of an infant into childhood. Relatives who could be trusted, and who would be familiar, proved a popular choice for testamentary guardians and, failing any familial link, who better to raise and protect a child than a godparent or family friend, a

neighbour, fellow parishioner or craft brother who would have known the deceased parents and could provide familiarity of environment and continuity of the child's education, trade association and spiritual affiliation?

FAMILY CARE

The need for the nurturing care of a maternal figure to enhance the chances of an infant reaching childhood and beyond was one that was not underestimated by fourteenth century society, particularly in times of high mortality.⁷ It is clear that Johanna Elys was careful to ensure that young Richard and his infant sister were passed into the care of their grandmother probably because of their tender age. In 1349, Johanna Staundon (who reverted to her maiden name after the death of her husband, Ralph de Touby) left a will in which she devised all her property to her daughter, Agnes, and appointed her sister-in-law Idonia (the wife of William Staundon, her brother) to be the child's guardian. The will was written in 1349 but not enrolled until ten years later in March 1359. No Agnes Staundon ever appears in the civic records, and while it is possible that her mother feared death enough to write her will but then did not die, the example illustrates the trust placed in family associations.⁸

Family members were popular choices at this time, and not just by women. In 1349, Roger Syward devised the custody of his six children to their uncle, his brother, John.⁹ In May 1350, Katherine, late wife of William Holbech, draper, devised the guardianship of her young children, Bartholomew, Alice and William, to their grandfather, the alderman, John

⁷ The role of women in wardship is discussed more thoroughly in Chapter 8.

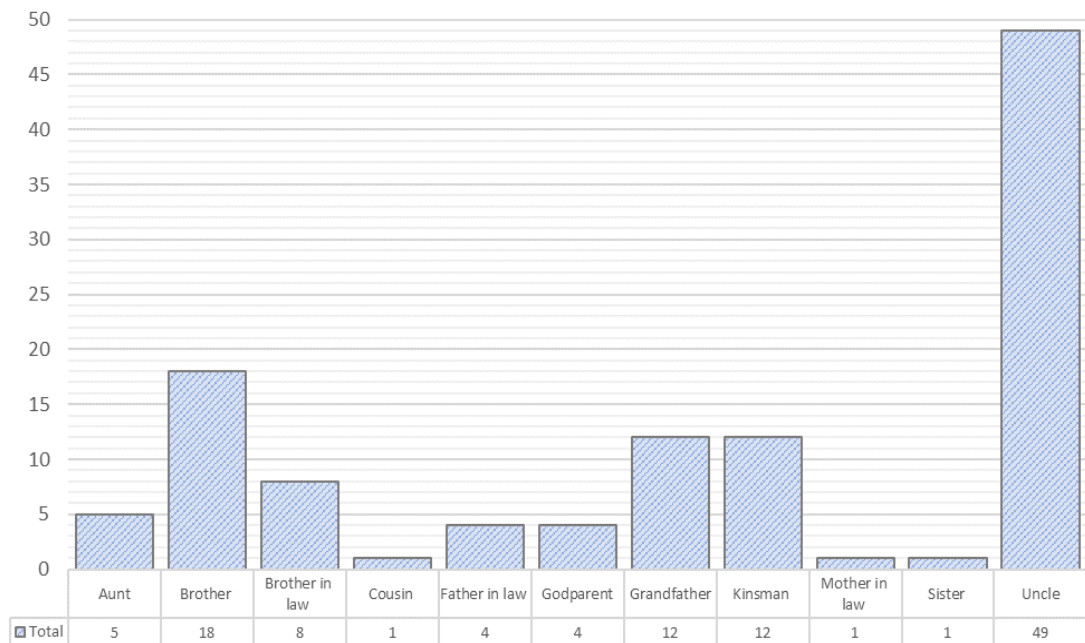
⁸ *CWCH* ii. 9

⁹ Between the will being written in November 1348 and enrolled in July, and the appointment being ratified by the court in August, three of the children had died, leaving William, Mary and Thomas aged six, five and one. *CWCH* ii. 596; *CLBF*, 194

5: Impact of Plague

Pecche.¹⁰ Margaret Staundone was placed in the care of her elder brother in November 1350 as were Sampson and Robert Gentyll in 1352. In 1353, the city, seemingly unsure who was her next of kin, placed Isabella de Grantham, a deaf mute, in the care of the beadle of her ward [Farringdon Without] until, four months later, her sister could come to court and take on her care and her property.¹¹ In 1356, the executors of William Glover handed over his daughter Alice's guardianship to the girl's cousin, Petronilla and her husband Robert de Bedford and, as Table 5.1 shows, there are many more examples, not just of testamentary guardians, but of those appointed by the city.¹² It seemed to be that, in line with the canon/civil law sequence of guardianship appointments, a guardian known to the orphan was a preferred option.

FIGURE 5-1: RELATIONSHIP OF GUARDIAN TO ORPHAN IN THE CIVIC RECORDS WHERE KNOWN, 1276-1498:



SOURCES: *CLBA-L*; *CEMCR*; *CPMR* i-vi; *Jor.*, i-iv

¹⁰ Alice and William were only six years old. *CWCH* i. 543; *CLBF*, 211

¹¹ Margaret was the daughter of Richard Staundone and may have been related to Agnes and her mother Johanna. *CLBF*, 224, 249; *CLBG*, 2

¹² *CLBG*, 63

THE PARISH: ST CHRISTOPHER LE STOKKES CASE STUDY

It has been suggested that, while mothers (and next of kin) were favoured as a choice of guardian, 'stranger' guardians were often appointed when the mother had died.¹³ In the aftermath of the Black Death, unlike no other period in the study, the richness of detail in the husting wills makes it possible to identify some of those 'stranger guardians', and reveals some interesting connections.

Figure 5.2 presents a visual representation of the intensive relationship of guardians [the red arrows], sureties [the blue arrows] and executors [the green arrows] to orphaned children [in red boxes] within the locality of the parish of St Christopher le Stokkes in the second half of the fourteenth century. St Christopher's was a small parish situated just north of the east-west thoroughfare of Cornhill and near the public stocks situated there which gave the parish its name. It straddled Broad Street and Cornhill wards and, in the fourteenth century, was not particularly associated with any one trade (although for a while a number of drapers settled here).¹⁴ Study of the husting wills has revealed a number of connected cases and the consequent demonstrable network of its residents in matters of wardship makes it an excellent case study to understand the care taken in the placing of orphaned children: the 'stranger' guardians are revealed rarely to be strangers at all.

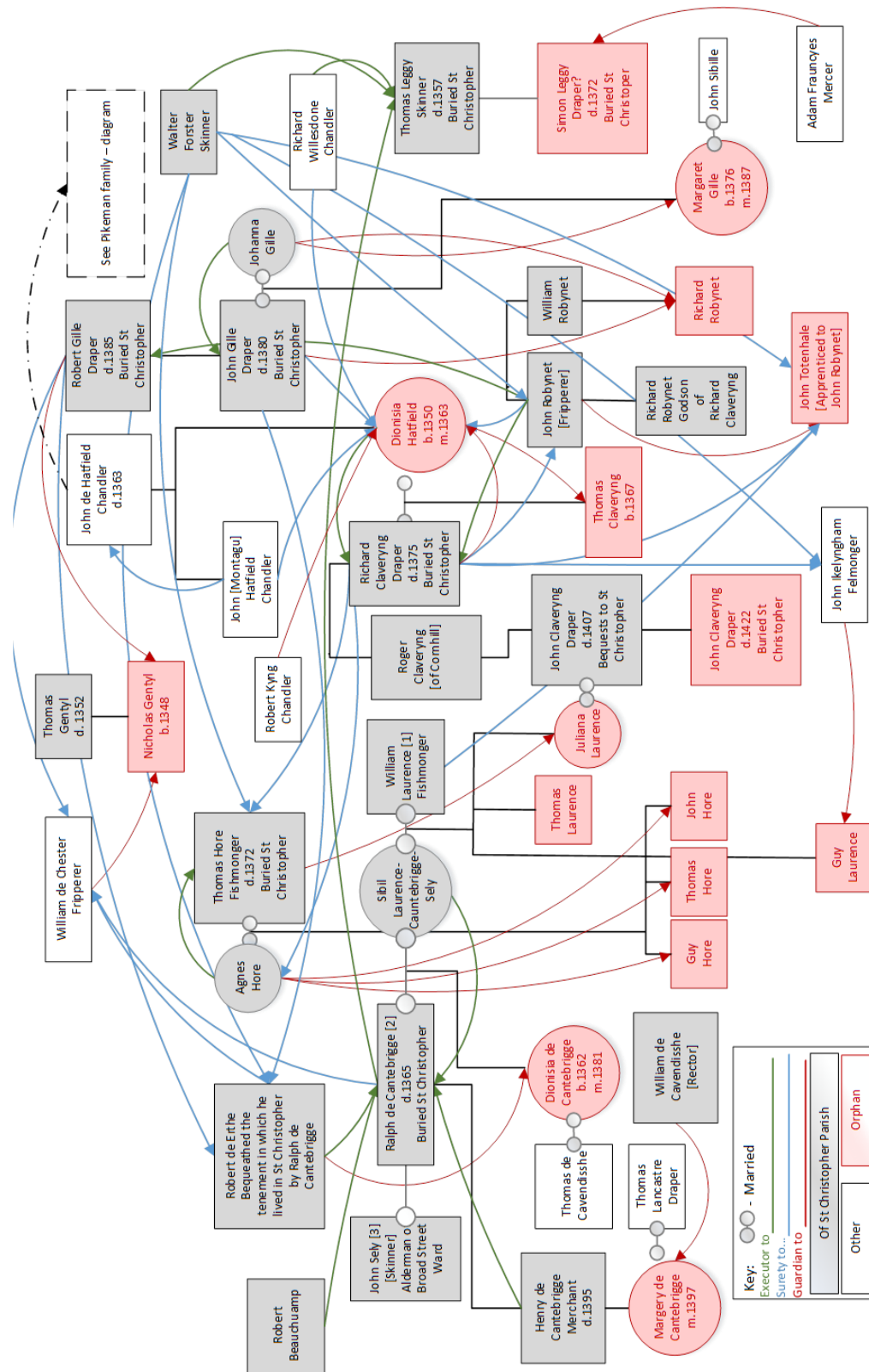
While the diagram shows the result of research behind the cases, it is easy to understand why, from the civic records alone, the placing of children with guardians might appear to be random. Two orphan cases in this study which came before the court in 1366 and 1373

¹³ Barron and Martin, 'Mothers and Orphans', 288–9

¹⁴ E. J. P. Quinton, *The Drapers and the Drapery Trade of Late Medieval London, c.1300–c.1500* (PhD thesis, University of London, 2001), 24, 29

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FIGURE 5-2: NEIGHBOURHOOD AND FAMILY LINKS: ORPHANS, GUARDIANS, SURETIES AND EXECUTORS IN THE PARISH OF ST CHRISTOPHER 1352-1422



appear to be routine appointments of 'stranger' guardians. On 20 July 1366, Thomas Hore was appointed guardian to Thomas and Juliana Laurence, children of William Laurence, fishmonger and, on the same day, John Ilkyngham was given the guardianship of their brother Guy. On 4 May 1473, Robert Erethe took on the patrimony of a young Denise de Cauntebrigge, daughter of the merchant, Ralph de Cauntebrigge. There is no indication that the two cases are linked in any way, or that the children were being placed in a familiar environment with people known to them. In fact, the four youngsters were half-siblings, and shared the same mother, Sibil, who was still alive and living in the parish of St Christopher when both formal appointments took place. William Laurence was Sibil's first husband, Ralph de Cauntebrigge, was her second.

THE LAURENCE CHILDREN

Sibil was married to William Laurence by at least 1349 when they were both principal legatees in the will of Thomas de Gillingham. Gillingham may have been Sibil's brother and she his heir, as he bequeathed all his considerable tenements in the parish of St Christopher to her and to William, her husband.¹⁵ William Laurence died sometime after 1359 (his will does not survive) soon after which Sibil had married Ralph Cauntebrigge and borne him a daughter, Denise.¹⁶ Sometime between April 1365 and January 1366, Cauntebrigge also died and by July 1366 when Thomas Hore and John Ikelyngham were appointed guardians of her elder children, Sibil had married her third husband, the skinner John Sely.¹⁷

¹⁵ *CWCH* i. 590

¹⁶ Guy Laurence is said to be six years old in 1366, meaning his father must have been alive until at least 1359. Denise Cauntebrigge was born before May 1362, meaning William Laurence must have died and Sibil remarried by the middle of 1361.

¹⁷ Cauntebrigge is the only one of Sibil's husbands for whom a will survives. It was written in April 1365 and enrolled in January 1366. His daughter Denise is not mentioned in it although she had been born around 1362. *CWCH* ii. 91. John Sely was probably younger than Sibil. He went on to be the [cont.]

5: Impact of Plague

Although Thomas, Juliana and Guy had remained with their mother throughout her second marriage to Cauntebrigge, Sibil's third marriage had triggered a transfer of guardianship, at least of the children's patrimonies if not their persons. In a case brought before the mayor's court just eight days after Hore and Ikelynham were appointed guardians, Sely and Sibil were accused of handing over only £51 of the three Laurence children's inheritance rather than the £61 left to them, with an addition of £10 from their stepfather, Cauntebrigge. Sely and Sibil were found to be in arrears and £7 was granted from Cauntebrigge's estate towards the shortfall.¹⁸ This dispute and the implication of Sibil's mismanagement of her children's inheritances may have been why the city chose to pass the finances into alternative wardship, but what is clear is that, even if the children left the care of their mother to live with their new guardians, they remained within the locale in which they had been born. Thomas and Juliana Laurence were placed with Thomas Hore, a fishmonger and fellow parishioner of St Christopher, and six-year-old Guy was placed with John Ilkyngham, who was also a neighbour.¹⁹

By 1372, John Claverynge, a draper, also of the parish of St Christopher, had married Juliana Laurence and had come into court to receive a portion of her patrimony from Agnes Hore, wife and executor of Thomas, her guardian (whose death that year appears to have been the

alderman of Bread Street ward in 1379 and Walbrook in 1382 and 1384. He was also a sheriff in 1382–3. Marrying Sibil may have given his financial status and aldermanic ambition a significant boost. See Chapter 9.

¹⁸ *CPMR* 1323–64, 64

¹⁹ *CLBG*, 212. Ilkyngham was a fishmonger of the parish of St Mary Woolchurch which abutted St Christopher's on the south east at the point where the stocks stood in Cornhill. *CPMR* 1364–81, 49. He held property in St Michael Cornhill just south of St Christopher's in 1367. He was likely affiliated with the drapers through the Claverynge family and at some time in the 1360s held property held by the Draper's company in Mark Lane, in the parish of All Hallows Barking. 'Mark Lane (West Side)', in *Survey of London: Volume 15, All Hallows, Barking-By-The-Tower, Pt II*, ed. G.H. Gater and W.H. Godfrey (London, 1934), 21–2

trigger for Claverynge's appearance in court).²⁰ Juliana's brother, Thomas Laurence, had died by that point and his share of the inheritance was split between his sister, Juliana and his brother, Guy. Guy Laurence came of age in 1382. Ikelyngham, Guy's guardian, had died by that time, as had Ilkyngham's sureties Richard Claveryng (John Claveryng's uncle) and Walter Forster, both of St Christopher's parish. The widows of these two men, Denise and Agnes, came to court with their second husbands (the grocers Richard Hatfield and Adam St Ives) to pay the inheritance to Guy in full.²¹ It is possible that these extended connections were a part of Guy's upbringing too. Denise Claverynge lived for many years in St Christopher's parish. Her second husband, Richard Hatfield, who paid out Guy's inheritance, was listed as a warden of the Grocers' company in 1385: Guy Laurence ultimately became a grocer and was a member of the company by 1387 when he is listed [alongside Adam St Ives], in a property transaction in the city.²² It is possible that Guy was apprenticed to one or the other, or influenced by them to join the Grocers' company, but he certainly grew to adulthood in the location of his birth, amongst protectors he would have known well. His sister, Juliana Laurence-Claverynge, remained a lifelong parishioner of St Christopher and was buried in the church that her husband's family heavily patronized, sometime before 1407, when her son requested burial next to her.²³

²⁰ Thomas Hore's will was enrolled on 28 October 1372. *CWCH* ii. 151

²¹ *CLBG*, 212

²² *List of the Wardens of the Grocers' Company from 1305 to 1907* ed. W.W. Grantham (London, 1907), 7. *CCR*, Ric II, iii. 426. Adam St Ives had been previously listed as active in the Drapers' company. A.H. Johnson, *The History of The Worshipful Company of the Drapers of London: Preceded by an Introduction on London and her Gilds up to the Close of the XVth Century*, (Oxford, 1914), i. 190; *CLBG*, 112

²³ Although her husband John was buried in the parish church of Cobham, their son John Calverynge, the younger, who gave lands to the church and was memorialised there, requested burial 'near the grave of Juliana, my mother, in St Christopher.' *CWCH* ii. 382, 429. J. Strype, *A Survey of the Cities of London and Westminster*, 2 vols (London, 1720), i. 123

DENISE CAUNTEBRIGGE

The Laurences' half-sister Denise Cauntebrigge probably stayed with their mother Sibil and stepfather John Sely until the age of eleven. The first indication of her existence as a city orphan occurs in May 1373, when her father's executor, Robert Beauchamp, paid a sum of 20 marks into the chamber for her. Eight days later, the 20 marks were given to Robert de Erethe, who, at the same time, was appointed her guardian. Walter Forster appears again, as his surety, together with Robert Gille, a draper, also of St Christopher's parish.²⁴ Ralph Cauntebrigge left his capital tenement in Broadstreet to Sibil for life and in remainder to Robert Erethe (and Juliana, Erethe's wife) for whom he made provision of rooms and stabling in the house during Sibil's lifetime.' Robert Erethe and his wife were clearly a part of the working household, living above the family business and connected enough to the family (perhaps related by marriage) for Erethe to be an executor and to have been left the property in tail after Sibil's death.²⁵ It is possible that Sibil had died by 1373 and responsibility for her daughter, Denise was transferred, along with any patrimony and the whole tenement, to the child's father's trusted legatees. At some point between then and 1381, John Gille, draper, fellow St Christopher parishioner and son of Robert Gille, Erethe's original surety, had entered into a recognizance acting as guarantor that Erethe would render an account for Denise should she marry.²⁶ In 1381, she married Thomas

²⁴ *CLBG*, 307

²⁵ *CWCH* ii. 91

²⁶ Robert Gille did not die until 1385 and thus was still alive when his son, John died, in 1380. *CWCH* ii. 218. It is unclear why the son sought to take on the responsibility of the father's surety, although John Gille certainly knew Sibil, Sely and the Cauntebrigges. In 1366 he occupied a property left by Ralph Cauntebrigge to his son, Henry, in St Christopher's. *CPMR 1364-81*, 59. Gille had been an apprentice in the household of Thomas Leggy, also of the parish of St Christopher, for whom Ralph de Cauntebrigge had acted as executor. Cauntebrigge and Gille were certainly well acquainted. See Simon Leggy's will; *CWCH* ii. 184. Walter Forster, Erethe's other surety, was also an executor of Thomas Leggy. *CWCH* ii. 699; *CLA/023/DW/01*, 85 (95)

Cavendissh.²⁷ John Gille (and presumably, Robert Erethe) had died by this time, but on 15 February 1381, Johanna, John Gille's wife and executor, rendered a full account to enable Denise to claim her inheritance.²⁸ Once again neighbourhood connections and trust underpinned the underwriting of inheritances throughout a wardship spanning sixteen years and in that time there is no evidence of young Denise having been moved from the location in which she was born.

FURTHER ST CHRISTOPHER CONNECTIONS

This evidence for orphans remaining in a familiar environment and surrounded by familiar people is supported elsewhere across the St Christopher study. Johanna Gille, who returned Denise Cauntebrigge's inheritance, also safeguarded that of her own daughter and, alone, took on the responsibility for her husband's ward, Richard Robynet, retaining him within the household in which he had been brought up.²⁹ Richard's uncle, John Robynet, took on wardship of his own apprentice, John Totenhale, as well as acting as an executor of the wills of Richard Claverynge and Robert Gille and as a surety to Denise Claverynge when she was ratified as the guardian of her son, Thomas. Richard Claverynge and Ralph Cauntebrigge witnessed Totenhale's deed of apprenticeship and Walter Forster, Richard Claverynge and

²⁷ A Thomas Cavensisshe is listed as a draper in 1359 which would have made him considerably older than Denise. However, there were several Cavendisshes prominent in the Drapers' company in the mid-fourteenth century and Stephen Cavendisshe was the alderman of Bread Street ward 1358–72, which held jurisdiction over St Christopher's parish. He left bequests to a nephew Thomas, who may have become Denise's husband, known to her and her guardians, through her links with the St Christopher drapers. Beaven, 388; Johnson, 'Worshipful Company of Drapers', 93, 190, 194

²⁸ *CLBG*, 316

²⁹ She held the guardianship of both alone until 1383 when she married Nicholas Extone. Extone then took on wardship of the young Margaret and rendered an account for Richard who had come of age. *CLBH*, 160

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William Laurence of the parish acted as sureties for the future return of Totenhale's patrimony when the apprenticeship reached its conclusion.³⁰

The critical point is this: in not one of the cases above is there evidence of the wardship having passed entirely, or in some cases, even in part, through the civic authorities. In these difficult times, fathers made provision for their children in their wills, selecting trusted friends and neighbours if members of the immediate family were not available. In a time of high mortality, when family members or guardians died, it can be demonstrated that children were still retained and cared for within a familiar environment. Friends and neighbours took up the responsibilities of apprenticeship, finding marriage partners within the bounds of their own social or local networks and were only occasionally nudged in the right direction by civic authority. Although it may seem at face value from the handful of disparate recordings in the court of aldermen that appointed guardians were strangers, the connections in this study, focused on the small parish of St Christopher, illustrate that keeping family influence and household familiarity alive for the children wherever possible was a priority for post-plague Londoners.

CRAFT AFFILIATION AND LOCAL COMMUNITY

Parish affiliation alone was not the only motive behind such care patterns. Amongst the craft guilds of the late fourteenth century, the Fishmongers stand out as a notable presence in the civic orphan records of the later fourteenth century. The economic implications of craft involvement in urban wardship is discussed in Chapter 9, but at this juncture, the Fishmongers' notable geographical concentration around the wharves east of London

³⁰ A younger brother, also named John, was apprenticed in July 1351 to another fripperer, Hugh de la Marche. Ralph de Cauntebrigge and Richard de Claverynge witnessed the deed of apprenticeship and William Laurence was among the sureties. Nothing further is known of either case. *CLBF*, 234

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Bridge enables another study and suggests that St Christopher's parish was not unique in establishing local networks of care.

Like the St Christopher model, Figure 5.3 illustrates a strong pattern of wardship connections amongst fishmongers and stockfishmongers in the second half of the fourteenth century.³¹ The fishmonger connections can be observed in the civic records, but deeper investigation into a number of cases suggests, as it did in the study of the parish of St Christopher's at this time of plague and high mortality, that it was location as much as the familiarity of trade affiliation, that was a primary driver behind wardship choices and decisions.

William Double was a victim of the Black Death; his will was written in April and enrolled in December 1349.³² In it he nominated Michael Clench, a fellow fishmonger, to be guardian of his son Stephen and also bequeathed him an existing wardship: that of John, son of Stephen Haccon. Clench (and probably young John) was dead by 1356, when ten-year old Stephen Double was given, by the city, into the wardship of John Yakesle along with a shop in the parish of St Magnus.³³ Not only was Yakesle also a fishmonger, but he was a resident of Bridge Street and a parishioner of St Magnus Martyr. William Double was of the same parish and a founding member of the fraternity of Salve Regina and St Thomas in the church of St Magnus.³⁴ It is probable that Yakesle was a fellow associate of the fraternity and knew the family well through worship, local community and trade affiliation. Although young

³¹ The Pikeman and Mockynge families are included here for purposes of connectivity but their cases are discussed in more detail below.

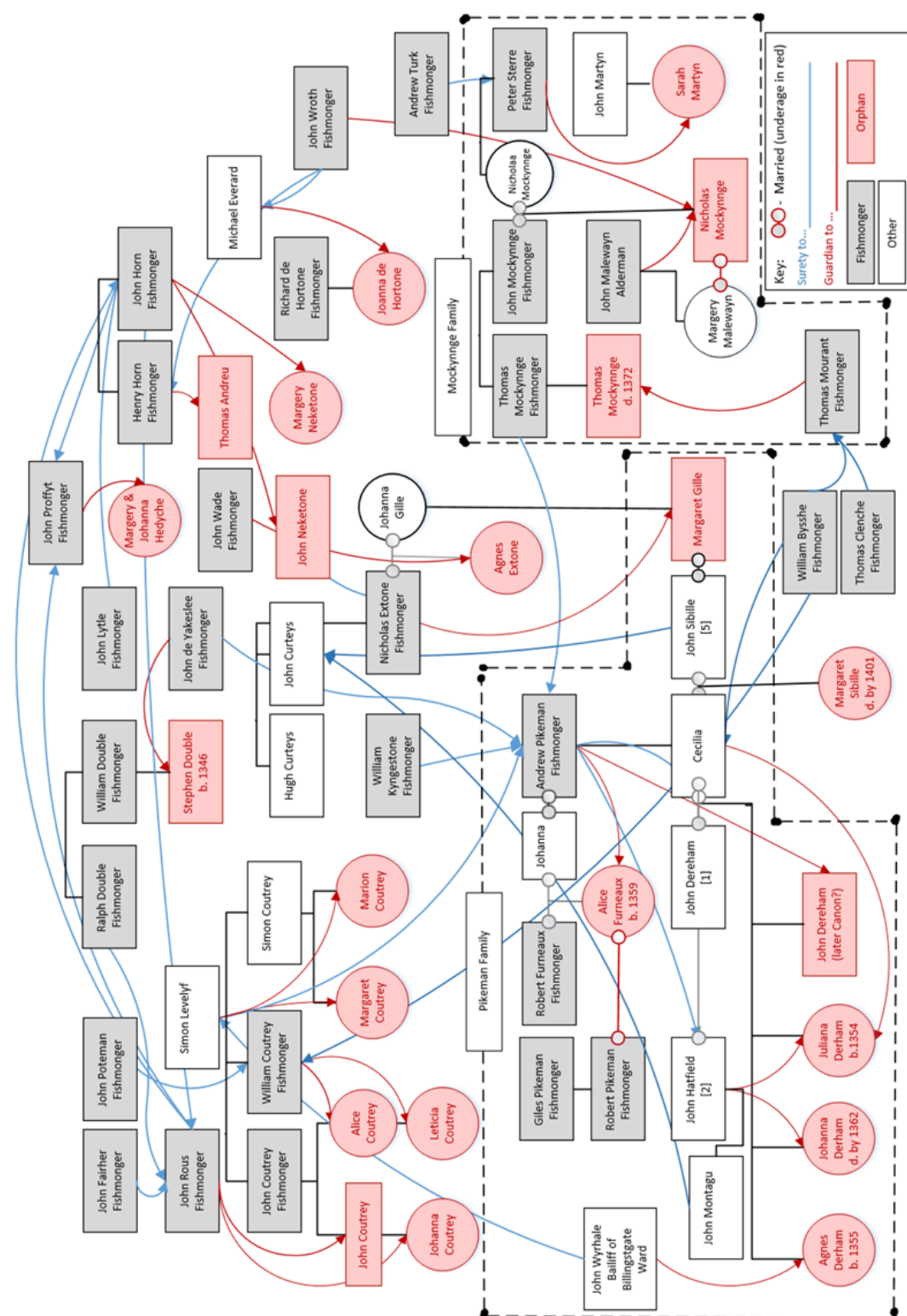
³² *CWCH* i. 613

³³ *CLBG*, 56–7

³⁴ Styrpe, *Survey of London and Westminster*, i. 175

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FIGURE 5-3: ORPHANS, GUARDIANS AND SURETIES AMONG FISHMONGERS OF BILLINGSGATE WARD, 1349-1400



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Stephen does not appear to have survived into adulthood, his childhood, certainly in terms of familiarity of guardian and environment and the retention of a connection with his dead father through the church and fraternity, was at least a relatively stable one.

Similarly, although there is no immediate connection between John Andreu, furbour, and John and Henry Horn, fishmongers, when the latter were appointed guardians to four-year-old Thomas Andreu in 1351, a geographical link can be made through the 1349 bequest of a tenement in St Magnus Martyr. This was left to John Andreu in 1349 in the will of Roger Cloville and, as Andreu was made guardian to Cloville's son and was bequeathed the tenement in St Magnus Martyr where the Clovilles lived, it is likely he was a fellow parishioner. The Horn brothers held property in Billingsgate ward adjoining Bridge Street ward, and in the parish of St Mary atte Hill to the east of St Magnus Martyr and came from a family of fishmongers, known and prominent in the area.³⁵ Like young Stephen Double, Thomas Andreu passed into the guardianship of neighbours known to him and would probably have grown up in the location of his birth.

The Courtroy [also known as Coutray] cousins had a similar experience. John Courtroy was a fishmonger who may have succumbed to the second wave of plague in 1361.³⁶ He was certainly dead by January 1363 and it must be assumed that his wife, Emma, looked after his

³⁵ The Horns were a prominent family of fishmongers traceable throughout the fourteenth century via property transactions in and around Billingsgate ward. See the wills of John Mockyng and John Croydon, fishmongers, *CWCH* i. 499, 50; *CLBD*, 316; A.K. McHardy, 'Ecclesiastical Property in the City of London, 1392: Billingsgate Ward', in *The Church in London, 1375–1392* (London, 1977), 44–5; *The Cartulary of Holy Trinity, Aldgate*, ed. G.A.J. Hodgett (London, 1971), 54–6

³⁶ His, very brief, will was written in July 1361 but not enrolled until January 1363. He may have had plague and survived, feared for his life and written his will in 1361 only to have survived, or his will may have been one of the backlog only enrolled after the wave of plague deaths had begun to subside. *CWCH* ii. 76

four under-aged children, Johanna, Alice, John and Leticia, until 27 June 1364, when the children were split between two guardians by the court of aldermen. Johnna and Alice were placed in the care of their uncle, William, another fishmonger and local resident and John and Leticia under the guardianship of John Rous.³⁷ Although Rous is not known to have been related to the family, he was a fellow fishmonger and parishioner of the parish of St Magnus and the Courtroy children had been living with their mother in a tenement bequeathed to her, on Rethergate Lane, directly behind the church and on the border with the parish of St Botolph's Billingsgate. When another uncle, Simon, died in March 1361, again at the height of the second plague, his daughters, Marion and Margaret, were placed by John Wroth, the mayor, (a fishmonger himself) under the guardianship of Simon Levelyf.³⁸ Simon Coutray was a painter, and Levelyf a brewer, but again, locality was taken into consideration. Levelyf was of the parish of St Botolph Billingsgate, directly to the east of St Magnus and it is likely that the girls did not have to move far, if at all, when Levelyf took on their wardship.³⁹

The parish and craft networks and the Richard Elys example at the start of the chapter all demonstrate that London citizens fashioned networks of care for their fatherless children which supplemented, and at this time seemed to underwrite, the formal civic policy. The tenets of burgage law, discussed in Chapter 2, held firm throughout the high mortality period of the later fourteenth century with guardianship being bequeathed more often than

³⁷ William Courtroy was certainly of the same geographical location at the time he took on guardianship of his nieces. He was one of the fishmongers, alongside John Rous, involved in the internal craft dispute of March 1365 which culminated in a physical attack on Giles Pikeman in Bridgestreet in the parish of St Magnus. *CLBG*, 185, 190; *Memorials*, ed. Riley, 315

³⁸ *CLBG*, 129

³⁹ Levelyf was paying rent on a property in Billingsgate in 1360 and called Andrew Pikeman of the parish and John Wyrhale bailiff of Billingsgate ward as his sureties. Hodgett, *Holy Trinity*, 49–50. *CLBG*, 129

not through the father's will. What these cases show is that, where high mortality threatened guardianships appointed by will (or the default care of the child's mother) other family members, neighbours, friends and craft associates stepped in to fill the void. It would seem moreover, that a great deal of care was taken to keep children in a familiar environment, so that they experienced a far greater level of stability than might be reasonably assumed from an examination of the civic records alone.

5.2 CIVIC ADMINISTRATION OVERWHELMED

It would appear, then, that the evolution of London's wardship, by the time the high mortality of the plague years wrought administrative havoc, had reached the point where the civic authorities were not so much routinely appointing guardians as simply doing their best to ratify them. But the procedural transactions of guardian appointment and return of patrimonies were not the only wardship responsibilities of the mayor and aldermen. They held in their hands the *protection* of their citizens' children, and all the real estate and capital tied up in orphan inheritances, and it is on this critical obligation that the impact of the plague was particularly apparent.

The wardship records in Letter Books G and H (1352–99) show a noticeable rise in civic intervention (notably, almost always at the instigation of the orphans or parties acting on their behalf) and provide some of the most complex cases in the study, a number of which are discussed below. That surviving children were particularly valuable in this period cannot be overstated and, as a consequence, the responsibilities of the mayor and aldermen were promoted to a critical level that would probably not be seen again. Although the efforts to strengthen policy and records in the wake of the 1321 Eyre had begun to lift city wardship administration from its vague customary beginnings, the very fact that it was the orphan/orphan parties who instigated interventions strongly suggests that civic procedure

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and control was not strong enough to weather a catastrophe like the Black Death. The evidence suggests that, for several decades, the city struggled.

The process, such as it was, did not collapse completely; there are cases of timely and careful intervention and assiduous management to be found. It was at the instruction of the court that John Madefrey was summoned to answer for the management of the patrimony of the children of Robert Westmelne in 1362. When he explained that the young Isabella Westmelne and her share of the inheritance had been placed in the priory of St John the Baptist in Halliwell on the understanding that, when she reached the age of fourteen, should she decide to leave, her inheritance would be returned to her, the mayor had the prioress come into court to swear to the agreement.⁴⁰ This check on executors was not unique: in 1353, Thomas de la Hale, a tax collector, had been “lacking in setting down how he administered the goods and chattels” of eleven-year-old Richard de Haryngeye. Under the investigation of Simon de Worstede, alderman, and Thomas de Waldene, the chamberlain, Hale was made to render an exceptionally thorough account of how exactly he had managed the assets in the two years since the death of Richard’s father, for whom Hale had acted as executor. Only when the mayor was satisfied with the detailed account was Hale appointed as Richard’s guardian.⁴¹

But the mismanagement of an inheritance was minor in comparison with the outright abuse of its value as a saleable commodity. Underage marriage was a risk within any wardship at any time, but more particularly when the value of a healthy girl, or boy, with a good

⁴⁰ *CLBG*, 152

⁴¹ COL/AD/01/007 (Letter Book G), ff. 4r–5r. This is one of the few rendered accounts captured in the city Letter Books and it goes into great detail of the costs and transactions involved in the management of young Richard’s propertied estate, without yielding much in the way of evidence for the child’s personal maintenance. It would seem that the city was particularly concerned that the management of the estate was the area in which Hale needed to demonstrate his competence.

inheritance was intensified by a soaring death rate. This was the most common form of abuse identifiable in years after the Black Death and produced the most detailed and high-profile cases of wardship mismanagement over the two centuries under investigation.

That girls were physically abducted from guardians and carried out of the jurisdiction of the city, presumably to bypass the consent required for marriage, only serves to demonstrate their value. The close-knit community of St Christopher's parish did not look out only for their own: Richard Claverynge and John Gille were amongst a number of citizens of the neighbouring parish of St Michael Cornhill who, in 1355, brought the case of Alice le Leche to the attention of the mayor.⁴² John le Leche, ironmonger, had died in 1348 leaving his infant daughter in the care of a mother who had survived him by less than a year. While it would seem that the default care of friends and parishioners had stepped in again and Stephen de Northrene, executor of Leche's will, had obtained custody of the young girl, he was now accused of wasting her property and absconding with her and her inheritance. Northrene was summoned to appear, but never did so and his property in the city, and that of Alice, was seized, hers to be maintained in her absence. Alice either died, or was declared dead, in 1360.⁴³

Agnes atte Holte was another orphan of the Black Death whose value proved too much of a temptation. She was placed under the guardianship of John de Berholte in 1351, from whose house in 1354, Richard de Standford, dyer, and Alice, his wife, forcibly carried her off along

⁴² Ralph de Cauntebrigge was also involved in the case as an auditor. *CLBG*, 58

⁴³ It is not clear if Alice was ever returned to London, but in the meantime, quite detailed accounts were returned by William Sunnynnge who was granted guardianship of the property on Alice's behalf. She either died in his wardship, or never returned to the city and was declared dead in 1360 when Sunnynnge rendered a final account. *CWCH* i. 524; *CLBG*, 55, 57–8; *Memorials*, ed. Riley, 282–4

with silver, jewels, wool and linen to the value of £10.⁴⁴ Whether this actually happened or, in fact, some arrangement between Berholte and the Standfords had been reached to avoid acquiring permission for Agnes to marry, is unclear. The jury found the couple not guilty and Agnes was removed from the care of John de Berholte into that of one of his sureties, the cordwainer, William de Ockham.⁴⁵ This appears only to have been a temporary arrangement for, in 1357, when Agnes was thirteen, John de Berholte came back before the court and requested that he and his sureties might be discharged as he had married Agnes.⁴⁶ Berholte's request was granted without contest, suggesting that permission to marry his ward, though unrecorded, had been sought and attained. But underage marriage *without* the permission of the mayor and alderman was another matter. The case of Andrew Pikeman illustrates this clearly.

ANDREW PIKEMAN⁴⁷

An entry in Letter Book G records that on 10 March 1360, the mayor and aldermen appointed John Hatfield, Chandler, to be guardian of Juliana Derham and Johanna her sister. On the same day, Andrew Pikeman, fishmonger, was appointed guardian of their brother John, and John Wyrhale was given custody of the youngest daughter Agnes, aged five.⁴⁸ From this civic transaction alone, it might be inferred that the children had been split up and

⁴⁴ Stephen Holte's will was enrolled in the Husting Rolls but is not referenced in Sharpe's calendar. CLA/023/DW/01, 76 (46) He left his daughters Agnes and Mathilda bequests of money and tenements in St Michael's, Cornhill and appointed Simon Caproun their guardian. It is probable that Caproun also died. *CLBF*, 241

⁴⁵ *CPMR* 1323–64, 242

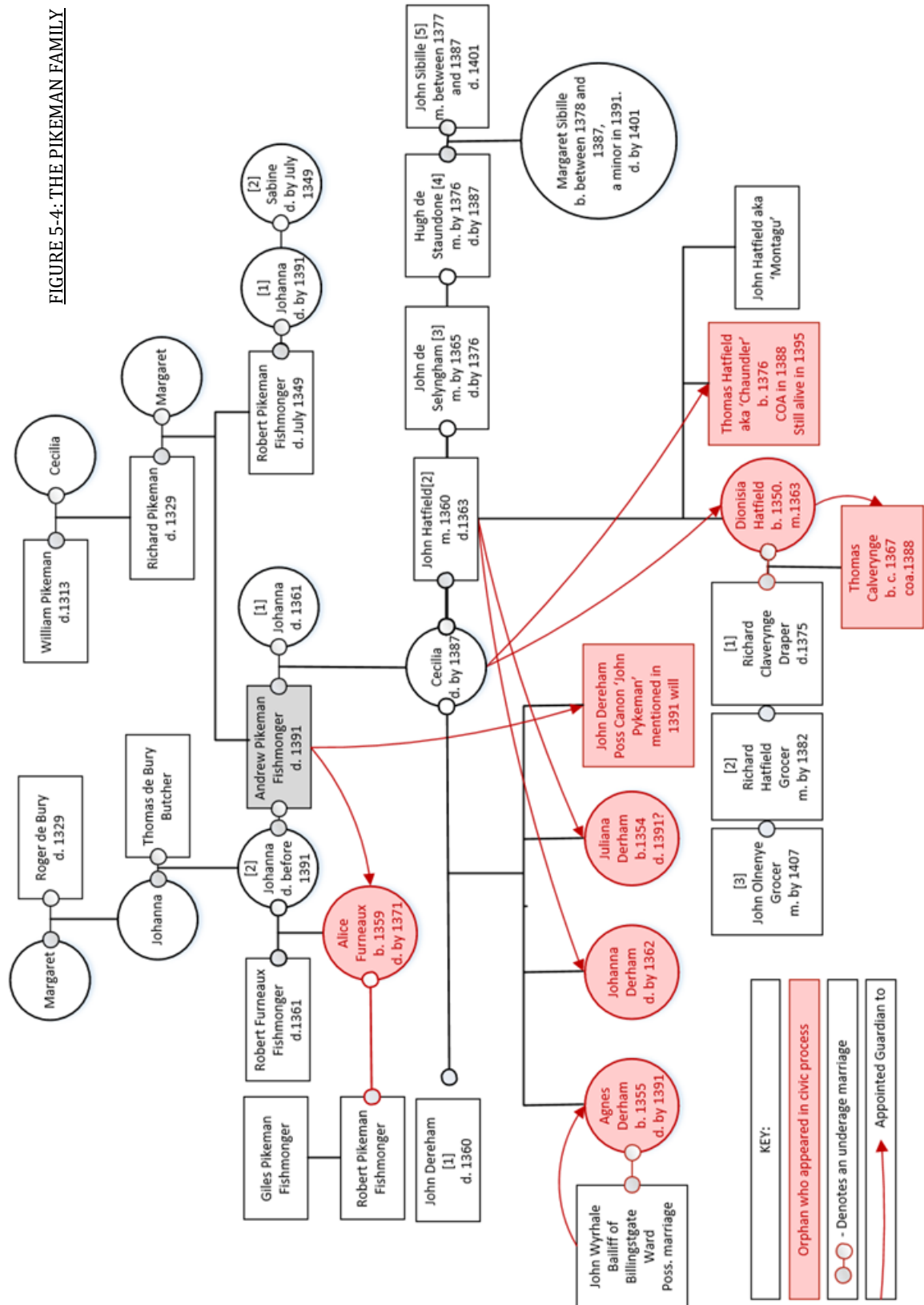
⁴⁶ *CLBF*, 241

⁴⁷ Figure 5.4 lifts the family of Andrew Pikeman, from the example of the extensive fishmonger connectivity illustrated in Figure 5.3. But the Pikemans also stray into the St Christopher case study, by virtue of Andrew's daughter, Cecily, and her second marriage to John Hatfield [See Figure 5.2]

⁴⁸ *CLBG*, 120

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FIGURE 5-4: THE PIKEMAN FAMILY



passed over to 'stranger' guardians. In fact, John Hatfield was Cecily Derham's second husband and therefore stepfather to Juliana and Johanna. Andrew Pikeman was their maternal grandfather (who also stood as surety for his new son-in-law alongside Hatfield's son, John) and John Wyrhale was then Bailiff of Billingsgate ward where the Pikeman family had long been resident (see Figure 5.4). That the children were given different guardians may have been relevant. John was perhaps initially destined for apprenticeship in his grandfather's fishmonger trade and Juliana and Johanna were young enough to warrant remaining in the care of their mother and new stepfather.⁴⁹ The appointment of five-year-old Alice's guardian however, is the anomaly and marks the point at which family and neighbourly care could cross over into procedural abuse for profit.

John Wyrhale was undoubtedly an acquaintance, if not good friend, of Andrew Pikeman: a neighbour, a civic office holder and of sufficient financial standing and familial closeness to act as surety, alongside Pikeman, to a mutual friend in 1361 and to Cecily, Pikeman's daughter, in 1363 and 1365.⁵⁰ When Wyrhale died in 1370, he left all his property in Billingsgate to Agnes, his wife, and an adult son.⁵¹ Given Wyrhale's continued connection with Cecily (and the family's preference for choosing guardians and sureties from amongst their own) it is possible that Agnes was given over to the guardianship of Wyrhale at the tender age of five years old as part of a marriage transaction. Although this may seem a harsh accusation, it is further substantiated by a case which stands out as particularly

⁴⁹ Although it cannot have been known at the time, John Dereham was to be the only known male heir to Pikeman's quite substantial accumulated wealth. However, evidence for his survival is inconclusive. Pikeman bequeathed 40s in his 1391 testament to a 'John Pykeman, canon of [T]oby', the only possible contender for a surviving John Derham in the document. The estate in its entirety passed to his granddaughter, Margaret Sibille. PCC PROB 11/1/41; *CWCH* ii. 293

⁵⁰ *CLBG*, 129, 157, 200

⁵¹ *CWCH* ii. 139

noteworthy in the civic records: that of the underage marriage, or at least the contract of the marriage, of Alice Forneux, at the age of just five years in 1363, to Robert Pikeman.⁵² Alice was the daughter of Robert Forneux, a fishmonger, also of Billingsgate ward. A few months after Forneux's death in 1361, Andrew Pikeman married his widow.⁵³ Within two years, concerned neighbours had cause to believe that Pikeman was planning to marry young Alice off without consent. On 26 June 1363, a case was brought by the common sergeant (who, it was specifically noted, prosecutes on behalf of city orphans) stating that Pikeman had not found security for his guardianship.⁵⁴ Pikeman answered a summons and, on 7 July 1363, he appeared before the court of aldermen and was specifically questioned as to whether or not his ward had been married without consent. Pikeman denied that this was the case, but the closing instruction of the mayor is telling and suggests that suspicion may have arisen with good cause:

...And thereupon *command* was given unto the before-named Andrew that he should not give the before-named Alice in marriage without assent of the Mayor and Aldermen, in such manner *as from old had been wont to be done*...

In spite of this most specific instruction and the fact that Pikeman's agreement to it was recorded, the promise was broken. On the 9 November 1363, Pikeman brought sureties to court and his guardianship of Alice was officially granted but, sometime before May 1364, he had married her, at just five or six years old, to Robert Pikeman, son of Giles Pikeman, a kinsman. Andrew Pikeman was brought before the court again and committed to prison on

⁵² The city regarded the case to be one of such blatant abuse that it was used almost fifty years later as a precedent for how to deal with the underage marriage of an orphan in the collection of civic laws and customs that was *Liber Albus*. *Liber Albus*, ed. Riley, 419–21, 527

⁵³ Forneux's will is dated 1 July 1361 but was not enrolled until November of that year. Pikeman had married Johanna by 15 February 1362. *CWCH* ii. 55; *CLBG*, 135, 156

⁵⁴ *CLBG*, 163

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19 May 1364. In the meantime, an inquisition of twenty-four men of the four wards closest to Billingsgate, commissioned by the mayor and aldermen, assessed the value of the marriage. This was returned on 1 November at £44 and Pikeman was commanded to pay the sum in full to the chamberlain.⁵⁵ Nothing further is known of the marriage. Although a further sum of money was transferred to Andrew Pikeman in 1367, in trust for Alice and with no mention of young Robert, she died sometime before 1371 when she would have been only thirteen.⁵⁶

Andrew Pikeman's crime was recorded as having arranged the marriage of his ward (and probably his granddaughter) without gaining the permission of the mayor and aldermen. Permission for underage marriage, under the tenets of socage law, was sought for reasons of preventing disparagement, of status or age. Canon law too decreed that a marriage contracted by a child under the age of seven was void.⁵⁷ It seems probable therefore that it was the young age of the children involved in these cases that attracted the attention of the city governors. When children were of the age of puberty, the civic authorities seem to have been more likely to grant their approval to a contract.⁵⁸

An example of this lies within the same family: at the same time as her father was under investigation for marrying off his young ward, his daughter Cecily appeared to be doing exactly the same with hers, although in her case, the lack of consequences suggests that the

⁵⁵ *CLBG*, 163–4; *Liber Albus*, ed. Riley, 419–21

⁵⁶ A deed enrolled in the Husting of Pleas of Land in March of that year confirmed that Margaret, a daughter of Robert Furneux's brother John, was Alice's heir and Pikeman paid the remaining patrimony to William Lambyn de Bromleigh, Margaret's husband. *CLBG*, 215

⁵⁷ Helmholz, 'Marriage Litigation', 98

⁵⁸ Canon law placed puberty at fourteen for a boy and twelve for a girl. Helmholz, 'Marriage Litigation', 98. See also S. Sheridan Walker, 'Free Consent and Marriage of Feudal Wards in Medieval England', *Journal of Medieval History*, 8 (1982), 123–34

all-important permission may have been granted. When Cecily married John Hatfield, in 1360, he had a young son, Thomas, aged three and a daughter, Denise, then ten years old by a previous marriage.⁵⁹ Hatfield was dead by December of 1363. Less than a year later, Richard Claveryng, (of St Christopher's parish, who had stood as surety for Guy Laurence's guardian) appeared in court to state that he, having married Denise Hatfield who was at that time fourteen years old, was ready to give security for the inheritance left to her by her father in his will. This is the first indication of Denise's status as a city orphan in the civic records. Hatfield's will had appointed Robert Kyng, his executor, as Denise's guardian with the instruction that she was not to receive her inheritance until she reached the age of sixteen. Although the will stated that Kyng must give security in court for the wardship, no civic confirmation of this was recorded and Claveryng's case mentions Kyng only in his capacity as an executor who had possession of the money. It is probable that the girl had remained with her stepmother, Cecily, and that it was Cecily who, very quickly following the death of the child's father, had orchestrated her stepdaughter's marriage, by the age of fourteen, but still in minority by the terms of her father's will, to a wealthy St Christopher neighbour, Richard Claveryng.⁶⁰

The Pikeman family example illustrates the fine line between wardship rights and what might be seen as an abuse of position for personal financial gain. In Denise Hatfield's case,

⁵⁹ It is known that Thomas remained with Cecily: she was granted guardianship in Hatfield's will of 1363, until Thomas reached eighteen, and was required to give surety. Although that condition is unrecorded in the Letter Books, she did find security at the Guildhall in October 1365 after she had married again. *CLBG*, 200. See Chapter 8.

⁶⁰ Cecily Pikeman had become a resident of St Christopher when she married John "Le Chaundler" Hatfield in 1362: it is possible she was familiar with the parish through the link between fishmongers and the Stocks Market. Strype, *Survey of London and Westminster*, i. 194. Kyng handed over Denise's patrimony to Richard Claverynge who retained it as her guardian until 1 March 1367 when he came back to court to gain release once Denise was over the age of sixteen. *CLBG*, 181

unlike that of her kinswomen Agnes and Alice, no-one raised a proverbial eyebrow, perhaps because she was older and of marriageable age, perhaps because permission was sought and her guardian had the right to the 'sale', and after all a testator's wishes were just that.⁶¹ These cases do, however, highlight the value of a ward's marriage and his or her accompanying inheritance. If the mayor and aldermen approved, underage children with an inheritance were indeed a precious commodity to both the buyer and the seller.

But what if the buyer and the seller were one and the same? On occasion, lines were crossed when the governing authorities, the aldermen themselves, became judges in their own cases. By the second half of the fourteenth century, how far were the city elites, the very men who were supposed to sit in objective judgement over wardship matters, taking advantage of their own authority to marry off their wards for their own personal advantage and financial gain?

5.3 CRISIS OF CONFIDENCE: THE ALDERMANIC ABUSES

For all the altruism, trust and Christian neighbourliness that can be clearly traced in these difficult times, there was a darker side. Historians have characterized this period in London as one of disconnection; they have charted the rise of a critical gap between those who emerged from the ravages of plague with fortunes and opportunities honed and concentrated by the deaths of other family heirs, and those who merely survived. This paved the way for tensions that were "exacerbated by the repeated failures of London's governing

⁶¹ Canon law decreed that marriages must have the full consent of both parties and that coerced marriages could be annulled. In contracts made for a child between the age of seven and twelve (for a girl) or fourteen (for a boy) the individuals had the right to refuse upon reaching puberty. This involved the publicity and expense of ecclesiastical court procedure, however, and Helmholz notes how few cases appear in the Act Books of these courts involving reclamation against such marriages. Helmholz, 'Marriage and Litigation', 98. See also the case of John Costantyn below.

elite to represent the interests of [all] its people.”⁶² There are examples of this in the abuses of trade practices and the manipulation of foreign merchants’ interests in the city, but the same pattern of exploitation to enrich London’s ruling elite was also happening in wardship. In spite of attempts to strengthen the policy of wardship in the decades prior to the Black Death, it took this crisis to show that a policy alone was not enough. For perhaps the first time, it becomes apparent that testamentary guardianships, with no further civic checks or procedural protocols, were not sufficient to protect children from manipulation.

JOHN WROTH AND JOHN MALEWAYN:

A decade earlier than Andrew Pikeman’s imprisonment, but in the same neighbourhood of Billingsgate, two more prominent Londoners, both on the eve of elections as aldermen (one of whom was a fishmonger who certainly knew Pikeman) could be accused of manipulating another wardship, one initiated in trust and familiarity, to their own advantage.⁶³

The case of Nicholas Mockynge is a complex one and the three entries recorded in Letter Book G that refer to it are only the tip of an iceberg, the bulk of which is only revealed by the evidence given in a number of inquisitions post mortem.⁶⁴ John Mockynge, fishmonger and

⁶² Harry, *Constructing a Civic Community*, 32. See also C. Dyer, ‘The Social and Economic Background to the Rural Revolt of 1381’ in *The English Rising of 1381* ed. T.H. Aston and R.H. Hilton (Cambridge, 2010), 9–42; F. Rexroth, *Deviance and Power in Late Medieval London* (Cambridge, 2007), 126–56; R. Bird. *The Turbulent London of Richard II* (London, 1949)

⁶³ Wroth was Pikeman’s predecessor as alderman of Billingsgate ward, they both held extensive property there and were fellow parishioners of the church of St Botolph, Billingsgate. Beaven, 22; *CPMR 1364–81*, 167; *CPMR 1364–81*, 167

⁶⁴ One item relating to the Mockynge case actually appears in Letter Book H but is dated 1358 and appears to have been a memorandum tucked into the book out of sequence. *CLBG*, 38–9, 52, 106; *CLBH*, 1. Inquisitions were held into the estates of John, Nicholas, Nichola and John de Abyngdon, Nicholas’s ultimate heir. *CIPM* Ed III, ix. 89/100; vol 10. 152/635, 152/636; vol. XI, 161/122, 163/279; vol XIII, 229/195

5: Impact of Plague

owner of a portfolio of property stretching across Kent, Surrey, and Middlesex, and with substantial interests in London, died sometime in October 1347.⁶⁵ His wife Nichola, the sister of Peter Sterre, another fishmonger, outlived him by a year and died at the height of the Black Death.⁶⁶

It may well be significant that, although her will was written on 14 September 1348 and Nichola's death at that time was verified by all the inquisitions, it was not enrolled in the husting court until February 1375.⁶⁷ In her will, she nominated John Wroth, fishmonger, as the guardian of her underage sons, Thomas and Nicholas, to whom their father's estate was entailed. That nomination was never ratified by the court of aldermen but a statement in one of the inquisitions post mortem for John Mockynge is telling. It describes John Wroth as having held guardianship of young Nicholas 'by reason of socage' which suggests that Wroth was a relation of his ward on the maternal side (i.e., to whom no paternal patrimony could descend by inheritance). Nichola did leave bequests to Wroth, listing him alongside her children in the family portion of her will. It might therefore be inferred that he was her maternal uncle or cousin. Thomas Mockynge fell to the same plague that took his mother just a fortnight after her.⁶⁸ Nicholas, aged just eight years old in 1349, was the last remaining son, and heir to a portfolio of property further enriched three years later by the death of his

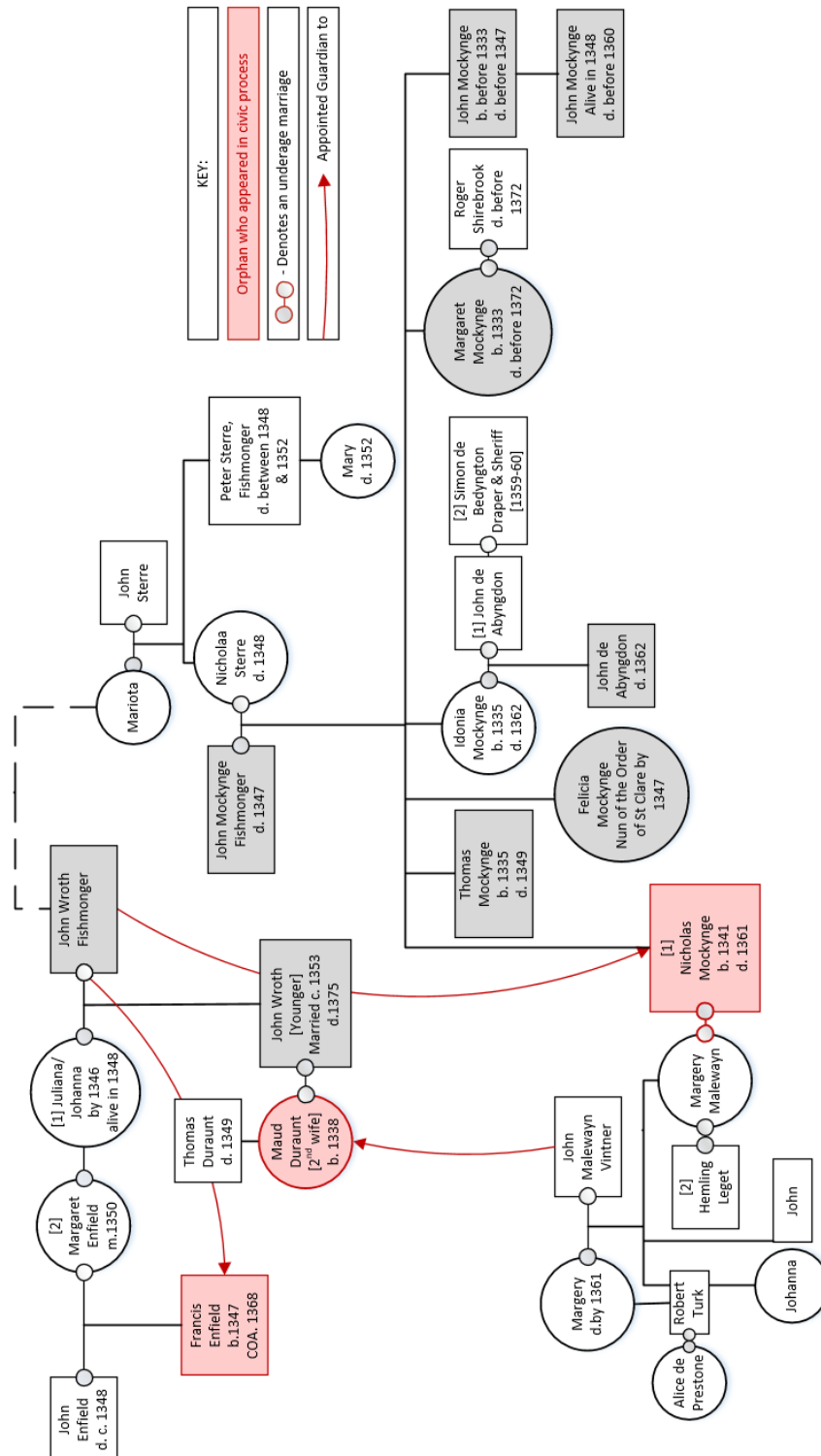
⁶⁵ His will was written on 8 September and enrolled on 6 December of that year. The various inquisitions put his death at anything between the feast of the Nativity of St Mary (6 September) to after all Saints on 1 November.

⁶⁶ The inquisitions post mortem all support this fact even though her will was not enrolled until 1375.

⁶⁷ *CWCH* ii. 168. The reason given for the will not being enrolled in 1349 was that the lay fee had not been paid. By 1375, when it was finally enrolled, Ralph Strode had begun his 'tidying up' of city orphan cases. In 1376, Wroth was not actually impeached in the Good Parliament of 1376, but was one of those "under great suspicion" Bird, *Turbulent London*, 18

⁶⁸ *CIPM*, Ed III, xiii. 229/195

FIGURE 5-5: THE MOCKYNGE FAMILY



maternal cousin, Mary Sterre.⁶⁹ Wroth was in sole charge of this patrimony and, although he could not inherit it, he certainly benefited from it financially. Nichola's will was granted probate, but the fee to enroll it as a property transaction was, notably, not paid at the time.⁷⁰ Wroth was thus receiving the profits of the estate without having formally registered the fact that the land and property had legally transferred to Nicholas. Moreover, by 1353, he had traded the marriage of the boy (when Nicholas would have been twelve years old) to John Malewayn, vintner and sometime attorney of the city, for '3 or 4 marks *and the [Malewayn's] wardship of Maud Duraunt*.'⁷¹ This last is of significance. Maud was the daughter of Thomas Duraunt of Enfield, to the north of the city.⁷² Duraunt (and John Wroth) held lands there, paying fees for the same in 1348 and Malewayn must have had connections in the manor and known the Duraunt family well enough to have been granted Maud's guardianship.⁷³ This was a neat financial transaction between a small clique in which Wroth and Malewayn traded each other's wards. By virtue of the fact that both men subsequently married their new charges to their own children (Wroth married fifteen-year-old Maud to

⁶⁹ At her death, Nicholas inherited land and property in Kent. *CIPM* Ed III, x. 152/635. Nicholas's year of birth was probably 1341. His elder brother Thomas was known to be their father's heir and Thomas was twelve when John Mockynge died in 1347. The same inquisition states that Nicholas was twenty-eight when he died in 1361, which would have put his birth year at 1333, but that would have made him older than Thomas. *CIPM*, Ed III, xiii. 229/195. In his own inquisition post mortem, Nicholas is stated to have been just six when his father died, putting his birth year at 1341. This makes more sense in the context of the Letter Book recordings, where he is deemed not to be of sufficient age to take care of his affairs in 1354, but is so, although still under the legal age of majority, in 1359. *CIPM* Ed III, x. 152/635; *CLBG*, 38-9, 52, 106

⁷⁰ *CWCH* ii. 168

⁷¹ *CIPM*, Ed III, xiii. 229/195

⁷² She was listed as his heir, aged twelve years old at his death in 1349. *CIPM*, Ed III, ix. 104/402

⁷³ John Wroth had acquired lands in Enfield, from his second wife Margaret Enfield whom he married in 1350 —he also took on the wardship of her three-year-old son, his father's heir. *CIPM*, Ed III, xii. 203/256. 'London and Middlesex Fines: Edward III', in *A Calendar to the Feet of Fines for London and Middlesex: Volume 1, Richard I - Richard III* ed. W.J. Hardy and W. Page (London, 1892), 125

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his son John and retained direct control of her fortune until she was seventeen; Malewayn married Nicholas to his daughter, Margery) they then gained direct control of the respective inheritances and received the lands and estates legally into their families.⁷⁴ Soon after, both men stood for the office of alderman: Malewayn was elected to Broad Street ward in May 1357 and remained in office until his death in 1361. Wroth was elected in Billingsgate ward in 1358 and remained until 1376.⁷⁵

That this well-organized package of minority marriage and the sale of wardships had bypassed the authority of the mayor is confirmed by the fact that the first civic acknowledgement of Nicholas Mockynge's wardship is the record of the writ he bought against John Wroth in 1354, when he was still only thirteen, for having appropriated property devised to him and for having married him for a fee, for which he, Wroth, had not rendered any account. Wroth was brought to court and, although he admitted to the marriage, claimed that it was without disparagement, rendered an account and was made only to hand over arrears of 100s and various chattels of plate and silver.⁷⁶ No fines or punishment were meted out. Tellingly, for his relationship with his new father-in-law, John Malewayn, Nicholas had asked the court for permission to take on his own estates. The mayor and aldermen thought, however, that he "did not appear to be of full age nor able to take care of himself" and Malewayn, was appointed his new guardian by the city.

⁷⁴ In 1353, an inquisition returned that Maud Duraunt was fifteen years old. The occasion seems to have been the transfer of her guardianship to Wroth who now, it was noted, held all her lands. *CLBG*, 38–9; *CIPM*, Ed III, x. 125/18; vol XIII, 229/195. John Wroth the younger and his wife, Mathilda (Maud was a variant of Mathilda), paid fees for property in Enfield in 1372. Hardy and Page, 'London and Middlesex Fines', 125

⁷⁵ Beaven, 27

⁷⁶ *CLBG*, 38–9; *CIPM*, Ed III, xiii. 229/195

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Nicholas seems to have been displeased with this arrangement. Malewayn, who in spite of holding several impressive offices, including the aldermanry of Bread Street ward from 1357 onwards, was imprisoned for debt in February of that year.⁷⁷ While Mockynge's guardian, he came under investigation several times about the management of Nicholas's inheritance.⁷⁸ In late 1358, Malewayn even found himself having to bring a case before the Kings Bench against one Edmund Fitz Johan (acting on whose behalf, it is unclear, but presumably someone with interest in the part of the Mockynge inheritance outside London) who had forcibly abducted Nicholas.⁷⁹ By March 1359, at the age of seventeen/eighteen, Nicholas had clearly had enough. He came before the court, made his case, claimed his property and this time, in spite of still being under twenty-one, was granted it.⁸⁰

Sadly, he did not live to enjoy it, falling victim to the second wave of plague on 14 October 1361 at the age of just twenty.⁸¹ Being the last male heir of his father and uncle, the inheritance was the subject of at least four further inquisitions, all of which throw light on the, if not illegal then less-than-moral, manner in which Nicholas's wardship had been

⁷⁷ F. Sargent. 'The Wine Trade with Gascony' in *Finance and Trade Under Edward III: The London Lay Subsidy of 1332* ed. G. Unwin (Manchester, 1918), [British History Online](#), 256–311. Malewayn is described as an attorney to John Hanonia during the time he held the position of Receiver and Surveyor of Issues of Customs and Subsidies of All Ports of England. *CCR*, Ed III, vi. 163, 210, 273, 289, 306, 622; IX, 46, 101. He also held the post of Governor of the Liberties and Privileges of the Merchants of England in the Ports of Flanders, Holland and Seland. *CCR*, Ed III, x. 593. Interestingly, John Costantyn and John Pecche, both serving aldermen at the time, were two of the mainpernors who secured his release from debtor's prison. *CCR*, Ed III, x. 389

⁷⁸ Hodgett, *Holy Trinity*, 57–61, *CLBG*, 52

⁷⁹ *CLBH*, 1 This entry is out of chronological sequence in the Letter Books. There were clearly those involved in the estate who felt that the wardship of Nicholas should have reverted to the king on his mother's death, rather than the city. See *CIPM*, Ed III, xiii. 229/195

⁸⁰ *CLBG*, 106

⁸¹ Sloane, *Black Death*, 123. *CIPM*, Ed III, xiii. 229/195

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handled.⁸² In the end, the estate passed to Nicholas's sisters Idonia, who died in 1362,⁸³ and Margaret who had died by 1373⁸⁴, ultimately making Margery Malewayn the heir of the Mockynge family fortune.⁸⁵

Malewayn and Wroth's mismanagement of Nicholas Mockynge's estate and the cold, commercial sale of their respective wards' marriages to enable substantial inheritances to fall into their own dynasties seemingly slipped under the radar of the court of aldermen. John Malewayn himself was consumed, in June 1361, by the same second wave of plague that took Nicholas four months later.⁸⁶ John Wroth continued in office until 1376 when he asked to be discharged owing to the pressure of business abroad.⁸⁷ was removed as a

⁸² Only one does not and that is the inquisition held before the mayor of London in November 1360 concerning the London part of the estate. This return focuses solely on the costs and expenditure paid out on the said real estate. It is probably significant that John Wroth was the mayor before whom that inquisition was held. *CIPM*, Ed III, x. 152/636

⁸³ CLA/040/01/015 (GG/M67)

⁸⁴ *CIPM*, Ed III, xiii. 229/195

⁸⁵ Even as mayor, Wroth was lackadaisical in his management of the inheritance. He was instructed by the king in January 1362, as mayor and escheator, to ensure that Margery received her share of the estate as widow's dower. However, in May 1362, Helming Leget, the king's yeoman, whom Margery had subsequently married, brought a petition to the king stating that John Wroth had 'been removed from his office before such assignment was made,' forcing the king to pass the instruction onto John Pecche, Wroth's successor. *CCR*, Ed III, xi. 330

⁸⁶ John Malewayn's will was written in June 1361 and enrolled a month later. He left two children, John and Juliana, both under-age, neither of whom ever came before the court as city orphans. On a note of irony, Malewayn's stepson by his first wife was the Robert Turk who married Alice de Prestone, the sole surviving heir of the Oxenford fortune. Had Malewayn lived longer, he would have been the patriarch of a family which held within it the estates of some of the richest men in pre-plague London. See below.

⁸⁷ *CLBH*, 48. His request was granted. It may have been of consequence that Wroth was one of the aldermen who notably absented himself from the assembly called in response to accusations levied at the city during the Good Parliament in 1376 and was very likely one of those 'under great suspicion.' His resignation came just a few months later. *CLBH*, 38. Bird, *Turbulent London*, 18

consequence of revelations of aldermanic abuse in the Good Parliament. Neither he nor John Malewayn was ever brought to task at the time for their malpractice; but they were not alone.

JOHN COSTANTYN AND THE HIDDEN ORPHANS

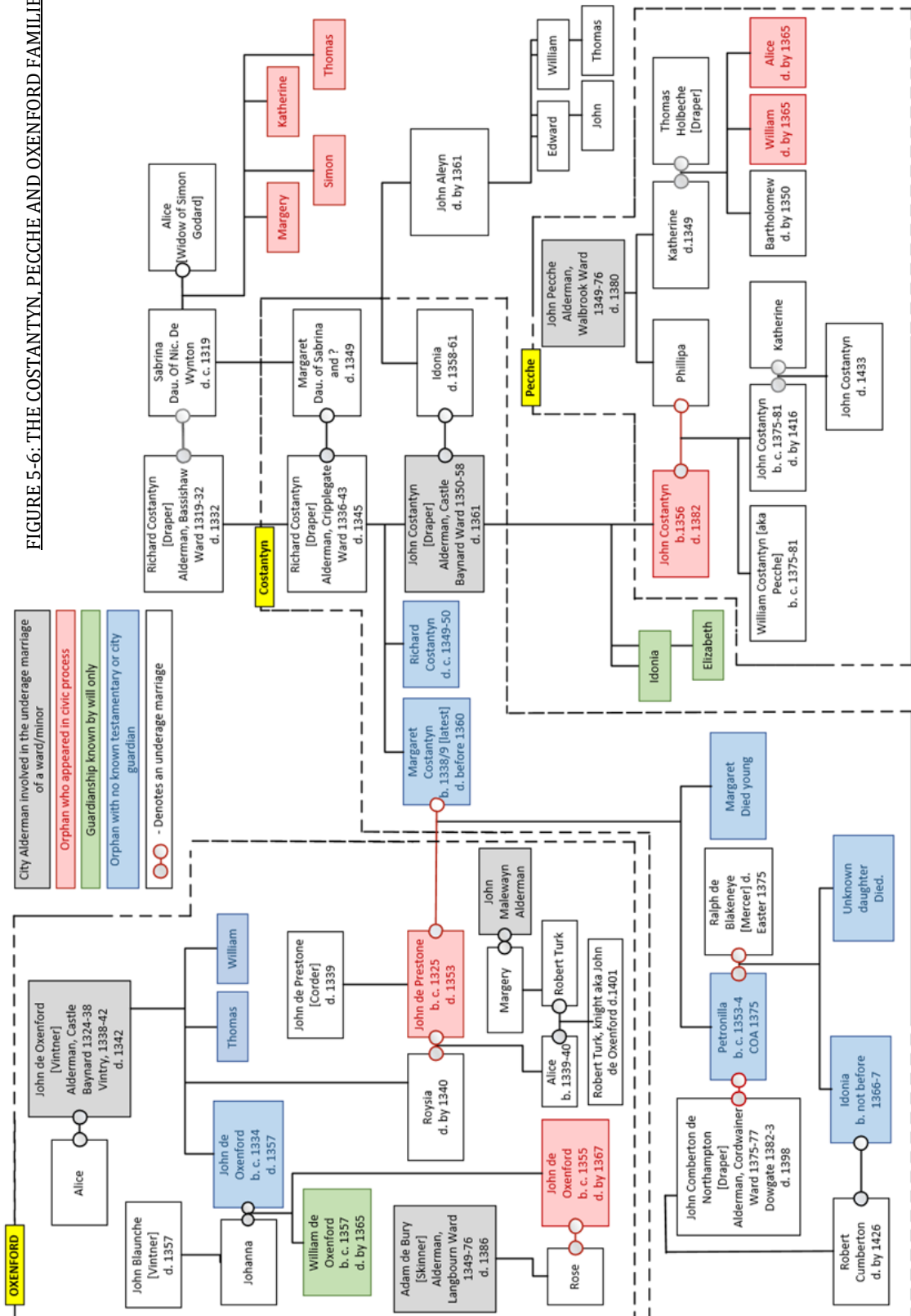
Malewayn and Wroth clearly saw the wardships of Nicholas Mockynge and Maud Duraunt as advantageous tools in their aspirations to attain the elite status of alderman. But in those same plague-impacted decades, there were others, already in office, who committed the darker crime of furthering their fortunes through wardship opportunities while simultaneously sitting in authoritative judgement on the orphan cases of their fellow citizens.

A case study of the connectivity between the Costantyn and Oxenford families (illustrated in Figure 5.6) provides illuminating evidence that not only were the inheritances of known city orphans at risk, but that the protection of the city and intervention to which those minors were entitled, was not forthcoming.

The Costantyn family (Figure 5.7) were, by the middle of the fourteenth century, a well-established aldermanic family. Two Richards, both drapers, had held office in the wards of Bassishaw and Cripplegate before John Costantyn continued the tradition of his father and grandfather and was elected alderman of Castle Baynard ward in 1350.⁸⁸ John's son, John the younger, would become a city orphan with a very visible and dramatic case recorded in detail in the civic records. But evidence from sources other than the Letter Books show that the younger John's aunt, Margaret Costantyn, and cousin, Petronilla de Prestone, were afforded no such civic attention even when their inheritances were threatened.

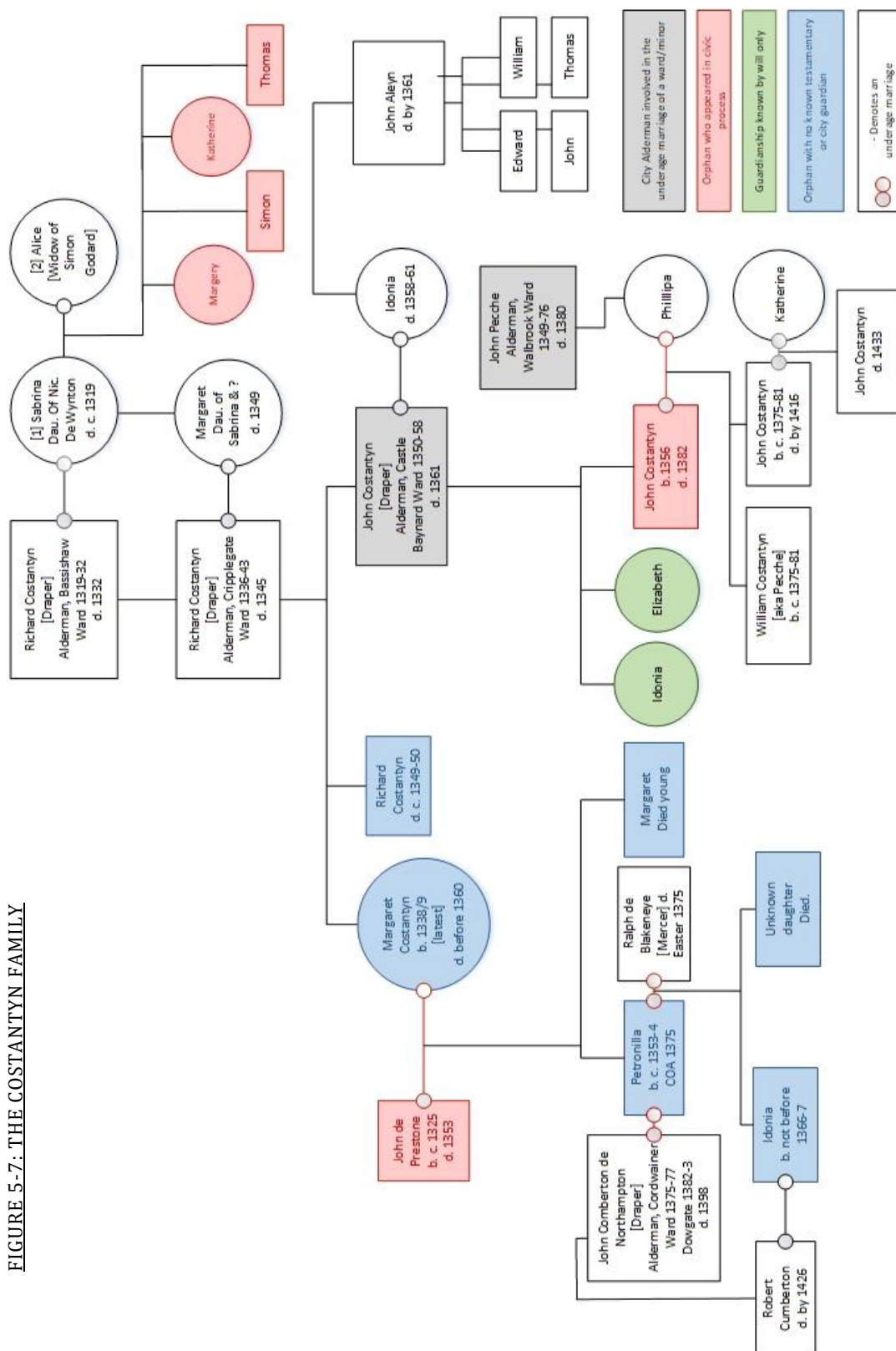
⁸⁸ Beaven, 88

FIGURE 5-6: THE COSTANTYN, PECCHIE AND OXENFORD FAMILIES



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FIGURE 5-7: THE COSTANTYN FAMILY



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In 1345, John Costantyn senior, already of age, was devised a substantial inheritance of London properties from his father, Richard.⁸⁹ In his will, Richard Costantyn named his wife, Margaret, as the guardian of their two younger children (also named Richard and Margaret) but none of his property was entailed to them. The widow, Margaret, died in 1349, presumably a victim of the plague, but wrote a short will devising property left to her by her mother, Sabina, to be divided equally between the two younger children, Richard and Margaret.⁹⁰ She did not however name a guardian and no civic record exists to suggest that the city stepped in and appointed one. Young Richard died not long after his mother, his share of the properties passing to his sister, and it might be assumed that young Margaret was taken into the household of her elder brother John and his wife, Idonia.⁹¹

Here is an example of why guardianship-by-socage, the rule that the guardian should be of the mother's side or to whom the inheritance could not descend, was a good principle of law. It is known from a plea of disseisin in the possessory assizes (brought two decades later by Margaret's daughter), that John Costantyn, alderman and draper, seized his young sister's messuages and land and enfeoffed them to a third party. Moreover, he very quickly married her, at a tender age, without any recorded permission and presumably at a fee, to the recently widowed John de Prestone, to whom she bore two daughters before, *still under the age of majority*, she died herself.⁹²

⁸⁹ *CWCH* i. 482

⁹⁰ Sabina, incidentally, had married Richard Costantyn, Margaret's father-in-law as her second husband, sparking a court case when he took on the patrimonies of her daughters. *CLBC*, 201, Keene and Harding, *Gazetteer* 294–8. See Figure 5.6. *CWCH* i. 584

⁹¹ 'Roll BB', in *London Possessory Assizes: A Calendar*, ed. H. Chew (London Record Society, 1965), 68–9

⁹² Determining Margaret's age is complex. She had two children before her husband died in 1353 and must have been at least twelve years old to have borne the first one, putting her birth year at around 1339 at the latest. She was still alive in 1353 when de Prestone wrote his will and so, to have died [cont.]

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Margaret died in the mid to late 1350s, leaving two daughters, Petronilla and another young Margaret who, with their elder half-sister, Alice, from de Prestone's first marriage, had each been devised a third of their father's not insignificant estate of London properties and rents.⁹³ We might assume that John Costantyn and his wife took them into their household too. The younger Margaret must have died in infancy for she is not referred to again and ultimately, Petronilla seems to have become the sole surviving adult heir to John de Prestone's estate.⁹⁴ Petronilla could not have been more than six or seven years old by the time her uncle John Costantyn died in 1360/1. She is not mentioned in his will, although that was written in 1358 at least a year before he died.⁹⁵ It is not inconceivable that, orphaned and in possession of a considerable inheritance, Petronilla was married off to the mercer Ralph de Blackeneye *before* Costantyn died. Someone would have had to contract the marriage; her parents were both dead and there is no record of the city or any testamentary guardian stepping in to protect her or her property. She must have been married to Blackeneye at a young age for she bore him at least two daughters and was *still* under age when he died in early 1375.⁹⁶ The fact that as soon as she married again (within a few short

after him and yet still be underage, she could have been born no earlier than 1333–38 depending on whether 'of age' was taken to mean sixteen or twenty-one. Either way, to have borne two children before 1353, she must have been married off very quickly after her mother's death in 1349. *CWCH* i. 669. Chew, *Possessory Assizes*, 68-69

⁹³ John de Prestone's will, enrolled, 1353. *CWCH* i. 669

⁹⁴ Bird, *Turbulent London*, 8, fn 6

⁹⁵ He brought a writ of Trespass to the King's Bench in late 1359 which resulted in a husting court case in mid-December of that year being settled in his favour. CIPM Ed.III, xi. 156/8

⁹⁶ In 1384, the Prioress of Kilburn petitioned Nicholas Brembre, mayor of London, to release 67s 10d from Northampton's seized estate for the maintenance of his wife, Petronilla's, two daughters for the 37 weeks when they were in her wardship. It is not clear when this wardship took place, but it could have been the time between Blackeneye's death and Petronilla's remarriage to Northampton. Nevertheless, no record or ratification of this wardship arrangement exists in the municipal records even though Blackeneye was a London mercer. One daughter seems to have died but the other,
[cont.]

months of Blackeneye's death) and came of age, she and her new husband, John de Northampton very quickly brought pleas of disseisin in the possessory assizes, claiming the properties that John Costantyn had seized from her, might also point to misappropriation.⁹⁷ These are all dark accusations against a respectable city alderman, but John Costantyn proved elsewhere that he had few scruples where wardship and property inheritance were concerned. At an Inquisition Post Mortem held in April 1361 to investigate who had held the lands of John Aleyn since his death, the jury returned a verdict which did not place Costantyn in a favourable light. He had "seized the wardship of John, Thomas and Edward [Aleyn's heirs] as next friend of the blood of Idonea, his wife, to whom no right could descend by inheritance, alleging that the tenements were gavelkind, whereas he could claim no right on this account because the premises did not descend by inheritance but by the feoffment." Nonetheless, Thomas Aleyn, while under the age of fifteen, had enfeoffed all his property to Costantyn in return for 10 marks a year, a gown and the promise to make him his apprentice. John Costantyn never paid Thomas the agreed rent, refused to make him his apprentice, and "maliciously prosecuted him and his brothers John and Edward on a writ of trespass in the King's Bench, so that they were put in exigent in the city of London and outlawed in the husting there." This was by way of preventing them from returning any action against him concerning the property. To "avoid his [Costantyn's] malice" John, Thomas and Edward left England.⁹⁸

Idonia, lived and was married to Robert Cumberton, brother of her stepfather, John de Northampton, by 1396. *CCR*, Ric II, v. 494; Keene and Harding, *Gazetteer*, 111-7

⁹⁷ Blackeneye died at Easter 1375 and Petronilla had married Northampton, come of age and brought the plea to court by 15 October 1375. Chew, *Possessory Assizes*, 46-72

⁹⁸ It is not recorded where they went but only Edward was still alive by April 1361. If they left England to avoid Costantyn's 'malice' then Costantyn must still have been alive in December 1359/early 1360. *CIPM*, Ed III, xi. 156/8

The evidence for Margaret, Petronilla and Idonia sitting as it does outside the civic wardship records, presents three generations of underage girls, all orphans by the terms of the city's policy and all invisible within it, in spite of the fact that two of them were very likely under the direct care of one of the city's aldermen. John Costantyn benefited financially from the marriage of his sister (and doubtless of his niece too) and came to be in direct control of the estates of his mother and, almost certainly, that of John de Prestone. Fate caught up with him and he died, possibly of plague, in 1361.⁹⁹ Like his colleague John Malewayn who suffered the same fate in the same year, he was never brought to task by his peers for any of these wardship infractions.

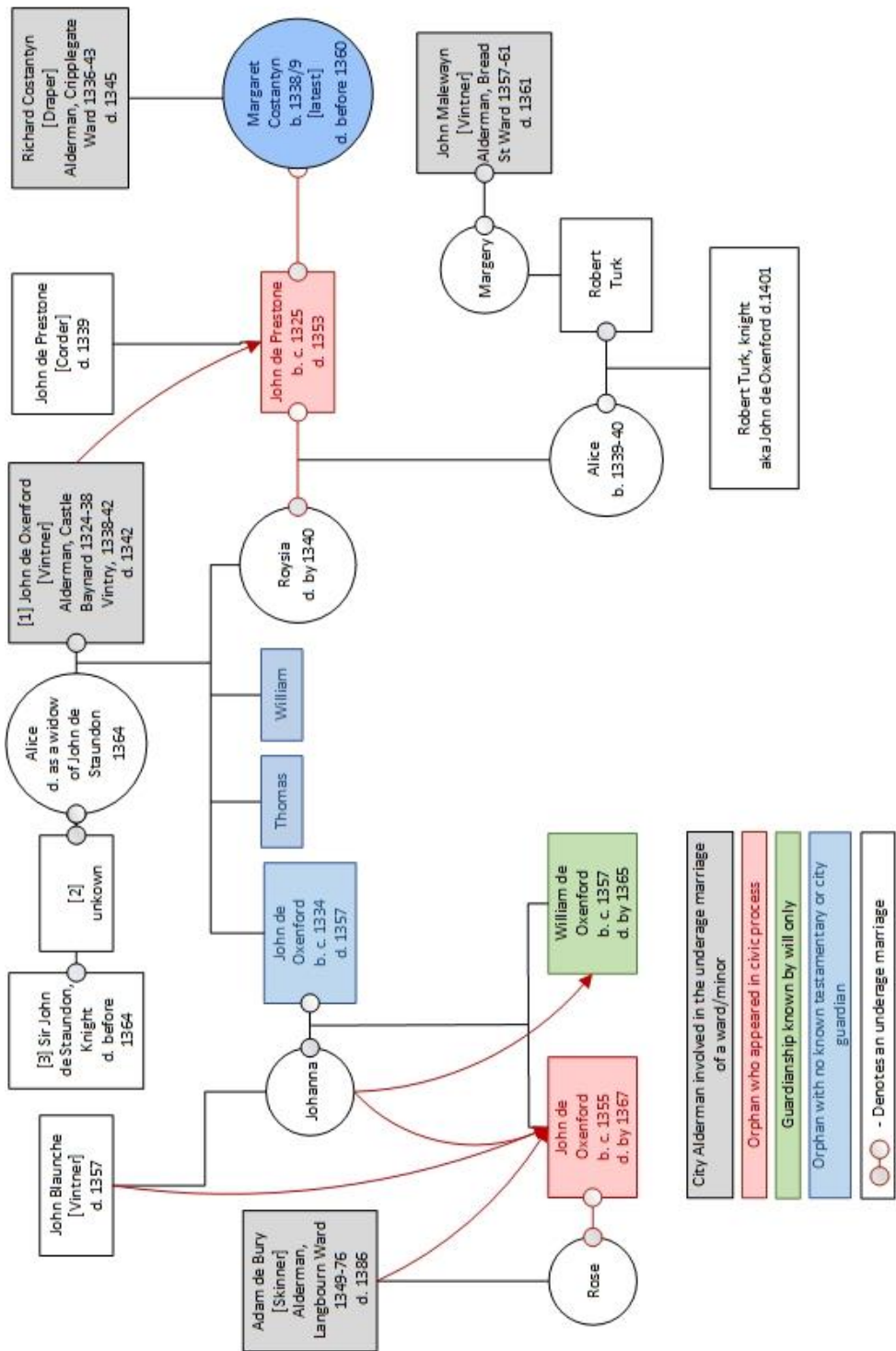
ADAM DE BURY AND JOHN DE OXENFORD

John de Prestone, the young man who married Margaret Costantyn and fathered Petronilla, was a city orphan himself [Figure 5.8]. His father had died in 1339 naming the wealthy vintner, and alderman of Vintry ward, John de Oxenford (senior) as his son's guardian and instructing in his will that his friend was to provide the boy with food, clothes, shoes and education throughout his minority.¹⁰⁰ While there is no civic record of the appointment of John de Oxenford as his guardian, there is an entry in Letter Book F for 1346 when John de

⁹⁹ His will was enrolled in October 1361, although it had been written in 1358. It is known that he was still alive in early 1360 and John Aley's Inquisition Post Mortem of April 1361, although noting the deaths of other persons in the enquiry, does not suggest that Costantyn had died at that time. John Costantyn probably died between April and October 1361. *CWCH* ii. 49

¹⁰⁰ *CWCH* i. 435. The guardian was the John de Oxenford who became mayor and died in office in 1342.

FIGURE 5-8: THE OXENFORD FAMILY



Prestone, the orphan, appeared before the mayor and aldermen and requested his inheritance, since he was now of age.¹⁰¹ The mayor of the time, Geoffrey de Wynchingham, had no record to look back on to verify this claim of majority and it took a personal examination of the claimant and evidence to be taken as to his age, to verify that his inheritance could be released to him. John de Oxenford, the boy's guardian had died in 1342, but not before marrying his ward to one of his daughters, Rose. Rose herself must have died before 1340 as she is not named amongst the six children meticulously mentioned in Oxenford's will.¹⁰² It seems probable that Oxenford married his ward, John de Prestone, to his daughter between taking on guardianship of young John in 1339 (when John would have been no more than fourteen) and Rose's death prior to May 1340. Perhaps she died in childbirth, for the marriage did produce a daughter, Alice.¹⁰³ As is clear from the mayor's inquisition, there was no recorded civic ratification of this guardianship or any formal request for de Prestone, as a city orphan, to be married while still in minority.

In addition to de Prestone, at least three of Oxenford's surviving children (three sons and three more daughters) were underage when he died in 1342 and yet none appears in the civic records.¹⁰⁴ No guardian is named in Oxenford's will, and it must be supposed that the children (and his son-in-law, John de Prestone) remained in his household in the custody of

¹⁰¹ *CLBF*, 157

¹⁰² *CWCH* i. 435

¹⁰³ John de Prestone refers to Alice by name as his daughter by Rose in his will, dated 6 May 1353. *CWCH* i. 699

¹⁰⁴ The eldest son, John the younger, was eight years old when he inherited his father's estate, which would suggest that his brothers, Thomas and William, at least, were younger than him. *CWCH* i. 460; *CIPM*, Ed. III, viii. 66/366

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his wife, Alice.¹⁰⁵ In spite of the value of the patrimony (a substantial property inheritance and devised sums of £100 each on top of any equitable 'portion' of the moveable estate) there is no record of these children having Alice ratified as their guardian or alternatively, being placed under the protection of the city.¹⁰⁶

Only the eldest son, a second John de Oxenford, can be traced into adulthood. He married Johanna, daughter of the vintner John Blaunche, but died himself, at the age of twenty-two, in 1357, leaving a son (the youngest John) and an unborn child, later identified as William.¹⁰⁷ The youngest John and William do appear as orphans in Letter Book G, however, the entries are not in specific reference to their wardship, but rather records of the transfer of deeds.¹⁰⁸ In his will, their father named his wife Johanna and his father-in-law, John Blaunche, as co-guardians of his children and their extensive property portfolio.¹⁰⁹ No record of the guardianship appointment or verification by surety appears in the city records, but a year later, Johanna transferred her guardianship and all the children's property, by deed, to John Blaunche alone and this is transcribed, probably at his request, as a property transaction.¹¹⁰ In 1365, Blaunche in turn transferred, by deed, the guardianship of youngest John (William

¹⁰⁵ Alice de Oxenford married again, to Sir John de Staunton, knight. She outlived him and devised considerable lands from this marriage to her grandson, John, at her death in 1364. *CIPM*, Ed. III, xi. 182/601; Keene and Harding, *Gazetteer*, 48–78

¹⁰⁶ George Unwin described John de Oxenford the vintner as "one of the richest men in London". G. Unwin, 'The London lay subsidy of 1332: Wealth and Trades of Wards', in *Finance and Trade Under Edward III the London Lay Subsidy of 1332* ed. G. Unwin (Manchester, 1918), [British History Online](#), 51–56

¹⁰⁷ He may also have been the John de Oxenford who was granted protection to go on pilgrimage in August 1350 (when he would have been fifteen or sixteen years old) *CPR*, Ed III, viii. 560

¹⁰⁸ *CLBG*, 95

¹⁰⁹ *CWCH* i. 699

¹¹⁰ *CLBG*, 95

had probably died) and his properties to Adam de Bury, a wealthy skinner and the current mayor.¹¹¹

These transfers, from the civic records alone, are puzzling. It is only by way of detail captured in the Husting Roll property deeds that it becomes apparent that the youngest John de Oxenford, the sole heir of his grandfather's extensive fortune and property holdings and – from 1364 – the estate of his paternal grandmother, Alice Staundon, had been married as a minor of eleven or twelve years old to Rose, daughter of Adam de Bury.¹¹² This youngest John, the third of his name, had died, no older than thirteen or fourteen, by 1367, so it is unlikely that the marriage was his by choice. By this marriage and in assuming guardianship of John's patrimony, Adam de Bury, alderman and serving mayor, took control, albeit temporarily, of one of the largest inheritances in London at that time.¹¹³ On the youngest John's death, the Hustings Rolls show that the Oxenford/Staunton patrimony was inherited by Alice Turk, John's 'kinswoman'.¹¹⁴ Alice was the youngest John de Oxenford's cousin, the eldest daughter of John de Prestone by his first wife Rose, daughter of de Prestone's guardian, the first John de Oxenford [Figure 5.8]. It was to her and her husband Robert Turk (stepson of John Malewayn) that the Oxenford fortune descended after 1367.¹¹⁵ Rose Bury-de Oxenford, the youngest John's widow, however received one third of the estate as a

¹¹¹ *CLBG*, 196

¹¹² Keene and Harding, *Gazetteer*, 48-78

¹¹³ His daughter, Rose, of course took one-third of the estate as her dower. Like John Costantyn, this was not the only wardship of which Bury had assumed control. In 1369 an inquisition showed him to have been receiving the rents and benefits of a property in Douegate (formerly belonging to John the underage son of John Adam, spicer) even though the boy had died, 'by what title the jurors know not.', *CIPM*, Ed III, xii. 214/433

¹¹⁴ Keene and Harding, *Gazetteer*, 48-78

¹¹⁵ Alice's son, Robert Turk, knight is recorded as holding property once held by John de Oxenford. *CCR*, Ric II. i. 338. *CPMR 1381-1412*, 174

dower; a considerable holding. It is unknown how old Rose was at this time, but her inherited wealth clearly set her in a position for a subsequent marriage into landed gentry; by the time her father died in 1385, she was married to Sir Andrew Cavendish, a citizen of London with extensive lands in Suffolk.¹¹⁶

The evidence that Adam de Bury married his daughter (underage and to another minor) into one of the largest fortunes in fourteenth century London in order to gain financial reward is circumstantial. Municipal recording of the details of this wardship are absent; no civic record exists to ratify the guardianship, marriage or any part of the wardship beyond the formal transfer of property deeds which would have been required to legalize the transaction. It cannot be known for certain, but it is hard not to surmise that de Bury (and perhaps John Blaunche) persuaded or even bullied the young widow, Johanna Oxenford, into relinquishing control of her children's inheritance and giving the valuable marriage of her underage son into the hands of the city's most authoritative figure, the mayor himself.

JOHN PECCHIE AND JOHN COSTANTYN, THE YOUNGER

There exists however, one case from this time where a misappropriating aldermanic guardian was ultimately, and thoroughly, brought to account.

Such opportunistic use of matchmaking (or blatant abuse of wardship) was not just confined to the immediate aftermath of the Black Death. The alderman John Costantyn's sudden death in 1361 left a legitimate heir, another John, who, unlike his cousin, Petronilla, was at least visible in the municipal records as an eligible city orphan. The early part of his wardship, however, is clouded by a plethora of wills, bequests and transfers amid the chaos

¹¹⁶ She outlived him and was still alive in 1419, which suggests that at the time of her first marriage around 1364, she was probably not of age herself. She bore Andrew Cavendish his son and heir in 1388. *CWCH* ii. 254; *CIPM*, Hen. IV, xix. 785; *CCR*, Hen. V, ii. 47

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of the second wave of plague. When John Costantyn senior died in 1361, he left a will, written three years earlier, in which he bequeathed all his inherited lands and rents to his son John who was to remain in the custody of his wife Idonia. Should Idonia re-marry, the guardianship was to pass to William Sallowe, a fellow draper.¹¹⁷ It is likely that Idonia had pre-deceased her husband, or died at about the same time, as William Sallowe's will was enrolled just three weeks after Costantyn's and in it he bequeathed the guardianship of his ward, young John, to his brother Thomas Sallowe.¹¹⁸ Thus, by a rapid sequence of plague deaths, the three-year-old John Costantyn came to be in the wardship of Thomas Sallowe, who was the Master of the Hospital of St Thomas de Acre, by late autumn 1361.

The responsibility of managing such an extensive portfolio of London properties was evidently too much for a religious man. In 1365, the first civic acknowledgement of young John Costantyn's orphan status appears: an administrative record of a bill brought by the city chamberlain against Brother Thomas de Sallowe for "detention of property belonging to John, son of John Costantyn, late alderman, a city orphan."¹¹⁹ At an appearance before the court on 28 October 1365, Sallowe declared he wanted nothing of the guardianship of the boy or his property and was prepared to render account and give it up. This request was accepted, auditors were appointed and although space was left beneath this entry in Letter Book G to capture the account details and any subsequent appointment of a guardian, nothing further of John Costantyn's wardship was recorded for another fourteen years.

Thus, only retrospectively it is known that, a few months later, at Pentecost 1366, the wardship was transferred to John Pecche, one time mayor, alderman of Walbrook ward and member of Parliament, and a close colleague, if not a personal friend, of John's father, John

¹¹⁷ CLA/023/DW/01, Roll 89/185. The will is also calendared in *CWCH* ii. 49

¹¹⁸ *CWCH* ii. 56

¹¹⁹ *CLBG*, 202

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Costantyn senior.¹²⁰ The timing is of note. The mayor in June 1366 was none other than Adam de Bury, who had just married his daughter to the young John de Oxenford, without any formal record of approval from his court of aldermen. If Pecche's guardianship appointment was ratified, or indeed orchestrated by the mayor and aldermen in their capacity as holders of the wardship, it too was never recorded in the Letter Book in spite of space being carefully left for it. Indeed, the language of Sallowe's summons (just after Adam de Bury was appointed mayor) and his response in his subsequent appearance in court suggests that the transfer of guardianship was not initiated by him, but by the city. While this might be seen as the aldermen stepping in to protect a testamentary wardship, such a move was unprecedented, and it certainly worked to the advantage of John Pecche. Unsurprisingly, as soon as he had the guardianship, Pecche married Costantyn, then just eight years old, to his daughter, Philippa.¹²¹

Young John Costantyn however, unlike his cousin or aunt, had the ability and wherewithal to fight back against his misappropriating guardian. The chest of deeds and scrolls was delivered to him in 1375 when he was seventeen, a transaction this time recorded in some detail, although not in any way referring to his guardian or wardship status. On 22 November, the city chamberlain, by order of the mayor, John Warde, handed over to him "438 written deeds... and divers other scrolls in 15 cases not under seal". It is unclear who

¹²⁰ John Pecche was a contemporary fellow draper of Costantyn in his early career. They were both serving aldermen in the 1350s and John Costantyn senior (alongside Adam de Bury) stood as a financial guarantor for John Pecche when the latter undertook the guardianship of his grandchildren in 1350. Beaven, 217; Johnson, 'Worshipful Company of Drapers', 188; CLBF, 210

¹²¹ The account rendered covers payments of board and maintenance for Philippa, John's wife, for the full ten and a half years of his wardship. Pecche accrued profits of over £650 during the ten years he held the inheritance. COL/AD/01/008 (Letter Book H), f. 120r

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triggered this transaction, but Costantyn was still in wardship at this time and John Pecche was one of the three recorded aldermen who oversaw the transfer.¹²²

John seems to have managed to take control of his own estates by 1377, but it took his reaching the age of majority in 1379 to bring Pecche fully to account for the wardship.¹²³

The animosity between ward and guardian is clear in every detail. After the auditors decreed that the total owed by Pecche was £172 14s. 8d., Costantyn and his attorney argued back that many of the deductibles set out by Pecche in his balancing of the account were unjustified. The case dragged on for several months until Costantyn finally agreed to the auditor's version of the sum owed to him. However, the five mainprisors standing surety for Pecche then defaulted and requested that Pecche be handed over to the custody of the sheriff for outstanding payment: a request that was granted. Whether Pecche was imprisoned for his debt is unrecorded, but the case was closed out in the Letter Book with a written statement that he paid the full sum adjudged to be due to his son-in-law three weeks later.¹²⁴

In the meantime, John Costantyn, finally assured of his inheritance and moneys owed to him from the profits of that patrimony, set about immediately divorcing his wife. Although the marriage had yielded two sons, it does not appear to have been a happy one and by this

¹²² *CLBH*, 16; *Memorials*, ed. Riley, 390. Ralph Strode had been appointed common sergeant in December 1374. It is possible that this transaction came about as part of his assessment of the city wardships active at the time he took office. See Chapter 6.

¹²³ From the details of the account rendered for his inheritance in 1379, it appears that John Costantyn, the younger, took control of his estates in February 1377, but it is likely that it was reaching the age of majority in 1379 that triggered the rendering of the outstanding account. This puts his birth year at 1358, the year his father wrote his will. COL/AD/01/008 (Letter Book H), f. 119r. The account states that John was 'in the liberty of the city' from Pentecost 1366 to February 1377.

¹²⁴ COL/AD/01/008 (Letter Book H), f. 120r

time, husband and wife were estranged.¹²⁵ In the account, Pecche had requested that John Costantyn find surety before the mayor and aldermen for a £100 marriage portion, binding him on oath to make the payment of the said sum to Philippa “if a divorce hereafter should take place”.¹²⁶ Once the dispute over the payment of his inheritance dues had been settled, John agreed to this request and on 30 April 1380, he brought John Northampton, the London draper and future mayor (who was married to his cousin, Petronilla) into court with him to stand as surety as he entered into a bond for the payment of the £100 in the event of a divorce from Philippa and agreed under oath with sureties to provide her with all necessities. The divorce was granted before Thomas Cranlee, the official of the Archdeacon of London on 18 January 1381 and Philippa claimed her £100.¹²⁷ The divorce in itself suggests Costantyn’s deep dissatisfaction with his guardian. Canon law insisted upon the free consent of both parties in a marriage and backed this up by allowing the annulment of forced marriages, especially those contracted by parents or guardians between minors (*infra annos nobiles*). As children had been born to John and Philippa, thereby invalidating impotence or non-consummation as a marriage impediment, and consanguinity, prior adultery or the breaking of a pre-contract seem unlikely, it is probable that this lack of free consent (perhaps combined with the age of John and Phillipa when the marriage was contracted) was the grounds for their divorce.¹²⁸ However, it was not a simple matter of petition. Objections to contracted marriages or coerced marriages had to be made publicly by the parties concerned in an open, ecclesiastical court and involved some considerable

¹²⁵ The account mentions the delivery of sums of money back and forth between the two households of John and Philippa. COL/AD/01/008 (Letter Book H), f. 120r. Property transactions in 1416 refer to John Costantyn, son of this John Costantyn and his brother ‘who also called himself Pecche’. Keene and Harding, *Gazetteer*, 227–8

¹²⁶ COL/AD/01/008 (Letter Book H), f. 120r

¹²⁷ *CLBH*, 141

¹²⁸ Helmholz, *Marriage Litigation*, 76–100

expense. Actual divorce suits, as opposed to the parties themselves coming to an arrangement following the acceptance of a void marriage, usually resulted from disagreement between the couple.¹²⁹ John Costantyn was clearly prepared to do whatever was necessary to distance himself completely from Pecche.

Costantyn appeared to eschew the elitism of the drapery trade followed by his ancestors and his guardian and became a, presumably very wealthy, cordwainer.¹³⁰ The unhappy denouement to his story was that, having freed himself from the financial and matrimonial chains, and abuses, of his minority, John Costantyn was dragged from his home and executed in the street in London in February 1384 for the crime of instigating a riot, following the arrest of his friend and kinsman, John de Northampton.¹³¹ The chronicler, Thomas Walsingham leaves us with an interesting observation on this, noting that the man killed “was seen in their [the rioters’] estimation as a possible mayor”. In other words, Costantyn may have been perceived to have been a potential replacement for Northampton,

¹²⁹ Helmholz, *Marriage Litigation*, 99. In contrast to Walker’s findings on the evidence for a predilection for free consent in feudal wardship marriages, this is the only instance in this study of an objection to a wardship marriage passing through the courts to divorce. Walker, ‘Free Consent’, 123–34

¹³⁰ As Pecche’s account dealt only in profits and the deducted sums he believed to be reasonable for the maintenance of John and his household, it might be assumed that the legacy wrapped up in the ‘438 deeds and divers other scrolls’ handed over to John in 1375, remained intact. It is known that, on the day of his death, Costantyn had at least two shops, in Budge Row and in St Laurence’s Lane. See Brembre’s petition in response to Costantyn’s death, TNA, SC 8/183/9147

¹³¹ The Westminster Chronicle stated the ringleader’s craft as cordwainer, although Walsingham incorrectly identified him as a tailor. Certainly, the city recorded the miscreant’s name as John Costantyn, cordwainer, when the royal sanction for his execution was written up in Letter Book H. *The Chronica Maiora of Thomas Walsingham, 1376-1422*. trans. D. Preest (Boydell, 2009), 214; *The Westminster Chronicle, 1381-1394* ed. L.C. Hector and B.F. Harvey (Oxford, 1882), 64-5; COL/AD/01/008 (Letter Book H), f. 174r; Rexroth, *Deviance and Power*, 140; Barron, *LLMA*, 24; C.M. Barron, *Revolt in London: 11th-15th June, 1381* (London, 1981), 11

or at least believed to have been his protégé.¹³² If Costantyn did have political aspirations aligned to Northampton's, then it would seem that they flew in the face of his family's more traditional representations of mercantile/aldermanic privilege and expectation. It is perhaps also a fitting legacy for Costantyn's maltreatment as a city orphan that his name was used in the petitions sent into the Merciless Parliament in 1388, by the Cordwainers and the Saddlers, as part of their discourse on the corruption of civic governance and the misfortune that was the burning of the Jubilee Book.¹³³

5.4 CONCLUSION: CORRUPTION OR COPING?

These aldermanic family case studies suggest corrupt practice, opportunism, abuse of privilege and the exploitation of vulnerable children and their inheritances by the very men responsible for their protection. John Pecche accounted for £654 11s. 4d. profit during the ten years he held the property of John Costantyn; John de Oxenford the vintner was considered by at least one historian to be one of the wealthiest men in pre-plague London, and John de Mockynge's estate spread across Kent, Surrey and Middlesex.¹³⁴ Young John Costantyn's marriage was valued at £100. At the other end of the spectrum, Alice Furneux's was valued at £44. It might be assumed that the marriages of John Mockynge, Maud Duraunt, John de Oxenford, John de Prestone, Margaret Costantyn, and Petronilla de Prestone all fell within that range, if not exceeded it. These children were the heirs to huge fortunes at a time when society was beleaguered, fear of death was ever-present and an administration barely in recovery from the Black Death was being hit by further devastating

¹³² *Chronica Maiora*, trans. Preest, 214

¹³³ The Cordwainers' petition: TNA SC 8/20/998; The Saddlers' petition: TNA SC 8/20/999
Translations in R. Ellis, 'Verba Vana: Empty Words in Ricardian London, vol II', (PhD thesis, University of London, 2014). See also Chapter 6, conclusion.

¹³⁴ Unwin, 'Lay Subsidy', 51–6

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outbreaks of plague. Between 1358 and 1361 when they were all in aldermanic office, Andrew Pikeman, John Pecche, John Costantyn, John Malewayn, John Wroth and Adam de Bury constituted one quarter of the members of the body accountable and responsible for the protection of the city's vulnerable fatherless children and yet every one of them profited improperly from wardship marriages and inheritances. The city's severity in its dealings with Andrew Pikeman over the marriage of Alice Furneux (Pecche, Wroth and de Bury were all still alive and serving as aldermen in judgement of this case) seems almost hypocritical in light of the activities of some of the members of the court.

And yet, context is crucial. To have survived the unparalleled pestilence of 1348–9 only to see family and friends falling at every turn in the second devastating wave of 1360–61 can barely be imagined today. These transgressions took place in a time of death and constant fear of death; of shattered faith and doubt in God; of the breakdown of society and social mores; of a civic bureaucracy struggling to avoid an administrative vacuum. From the perspective of the time, 1349 might feasibly have been perceived as the end of civilisation. Those who survived might be forgiven for being preoccupied with the struggle to retain humanity's tentative grip on existence, let alone preserve local law, civic order, and social propriety. Moreover, for Londoners, so proud of, and so reliant on, their independence from the crown, entire families and heirs were being wiped out, names and legacies were disappearing and property defaulting out of city hands and back to the king or the church.¹³⁵ In 1357, the city was claiming that one third of their buildings lay empty and studies have shown that foreign businessmen were taking advantage of the weakened monopoly of the

¹³⁵ Under socage law, citizens held London lands in socage from the king – in default of an heir the property could default back to the crown. *Historical Charters*, ed. De Gray Birch, 321

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city merchants and moving into the larger premises.¹³⁶ Londoners were fearful on many levels.

In the orphan case studies examined here, every family name [in the male line] petered out in the aftermath of the plague years. The Pikemans appear to have been numerous in London in the first half of the fourteenth century: an Adam, Ralph, at least two Williams, Richard, Stephen and Thomas Pikeman all appear regularly in the civic records before 1349. Only Andrew and Giles are to be found in the second half of the century and Andrew's estate was eventually all entailed on one surviving granddaughter who probably died underage.¹³⁷ John Mockyng's fortune passed through two sons and two daughters before finally moving outside of the direct family, and the city, to Margery Malewayn and her second husband. The aldermanic Costantyn family, while surviving through the sons of the Costantyn/Pecche marriage, never held aldermanic office again. The Oxenford fortune and estate finally became entailed on Richard Turk the younger, no-one of the family name having survived beyond 1365.

Every one of these families witnessed the death of close members to plague. John Costantyn lost his mother and younger brother to the 1349 outbreak and then he, his wife, and the friend he entrusted with the guardianship of his son, all succumbed to the 1361 epidemic. It could be argued that his motive in marrying his surviving sister at such a young age was fear of the death he witnessed around him at the time of the Great Plague. If then, eleven years

¹³⁶ *CLBG*, 85; P. Nightingale, *A Medieval Mercantile Community: The Grocers' Company and the Politics and Trade of London, 1000–1485*, (Yale, 1995), 208

¹³⁷ Margaret Sibille, daughter of Andrew's daughter, Cecily and her fifth husband John Sibille, had died before her father wrote his will in 1401. From the will it can be inferred that Andrew Pikeman's estate had passed to Sibille who, after his daughter's death, devised it to his three sons by his second wife, another Margaret [Gille – daughter of John and Johanna Gille of St Christopher's parish]. PCC PROB 11/2A/511/2B/1 and PROB 11/2B/1; PROB 11/1/41; *CWCH* ii. 293

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later, his wife Idonia did pre-decease him in that second wave of high mortality, and he was left with his own infant children and his seven-year-old niece, the latter's marriage might also have been to safeguard her future too. Similarly, John Wroth had lost his first wife to the Black Death, and the same year, witnessed the death of his niece or cousin, Nichola Mockynge and that of her eldest surviving son, within a month of each other.¹³⁸ Marrying his ward to a trusted colleague's daughter might simply have been a way of ensuring young Nicholas's future should Wroth also succumb. John Pecche lost a daughter, son-in-law and grandson in 1349 and two more grandchildren thereafter.¹³⁹ Even Andrew Pikeman might be forgiven his rapid marriage to, and adoption of, Robert Furneux's wife and daughter. Furneux was a sufficiently close friend to Pikeman to warrant inclusion in a chantry he set up for the souls of himself and his family thirty years after Furneux's death.¹⁴⁰ When Furneux died at the height of the 1361 plague, he asked to be laid to rest in the parish church of St Leonard Eastchepe 'where his children lie'.¹⁴¹ This may refer to the pestilence having recently taken them, making Alice, only two at the time of her father's death, and her mother Johanna, the sole survivors of a family Andrew Pikeman would have known well. Was this remarriage intended to protect his friend's widow and only surviving child? Financial gain was an unlikely motive as Furneux died in significant enough debt to warrant civic intervention into its recovery.¹⁴² Given the constant threat of death at the time, even

¹³⁸ It is known that Johanna Wroth was alive in 1348, but she had died and Wroth had married Margaret Enfield by 1350. Hardy and Page, 'London and Middlesex Fines', Item 262, 1348, 128; *CIPM* Ed III, xii. 203/256

¹³⁹ *CWCH* i. 543; The children had both died by 1365, the year at which they would have come of age. *CLBF*, 211

¹⁴⁰ PCC PROB 11/1/41; *CWCH* ii. 293

¹⁴¹ *CWCH* ii. 55

¹⁴². On 15 February 1362, when Andrew and his new wife come into court, it was to promise to pay off Furneux's debts by Christmas of that year.

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marrying young Alice off may simply have been a way of ensuring she had the security of a husband and family should Pikeman or her mother also die. Pikeman took such a risk in marrying her to young Robert, having so recently promised not to do so (and knowing that he would forfeit the value of the marriage if he did) that it has to be considered that financial gain was not his primary motive. In the immediate aftermath of the Black Death, Londoners had no way of knowing that it *was* an aftermath and that the plague would abate for a decade. It is easy to assume the corrupting influence of money and power when distanced by centuries from the real and terrible fear of probable, imminent, death.

This chapter has used case studies to illustrate the impact of the Black Death and subsequent plagues on the embryonic city wardship process, but the detailed studies are representative of the time. What these case studies make clear is that a substantial amount of orphan business did not, in the decades after the Black Death, run routinely through the civic courts. Overall, the policy to care for the underage children of its citizens was one that Londoners tried to uphold, even in a time of crisis and when civic oversight and administration was unable to be completely effective. Orphaned children were cared for by family, friends and neighbours, kept in familiar locations wherever possible and treated in a manner which spoke of their value as children as much as the financial opportunities that they represented. In these decades, the manner in which citizens fulfilled the obligations of wardship, sometimes for many years after they were originated and having been passed on to different people, suggests trust and familiarity and community obligation rather than a process imposed, or actively managed, by the civic authorities. But in the aftermath of the Black Death, this was not good enough.

It becomes very clear that the sudden volume of wardship cases and the havoc wrought by high mortality rates and their associated consequences, began to overwhelm a civic process that had, in 1348, only scarcely been defined and established within the broad brushstrokes

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of burgage law and ancient custom. In spite of the altruistic care of neighbours and friends, the value of orphaned children as individuals, marriage potential, heirs and providers of immediate capital meant that abuses were inevitable, and never more so than at a time when administrative control was perpetually in recovery. London had accepted its responsibilities in the pre-plague era only to find that, when disaster hit, its administration was not sufficiently robust to prevent a spiral into crisis. It would take the constitutional issues of the coming decades (and the cessation of severe plague outbreaks) for the city to shake out and deal with wardship abuses. Londoners were becoming increasingly dissatisfied with the efforts of a small elite to further their own ambitions and perceived that elite to be guilty of more systemic abuse. The need for change and the tightening of accountabilities was soon to be evident; the following decades would see the introduction of organised and responsible wardship procedures that were to be effective throughout the fifteenth century and lay the real foundations of the early modern court of orphans.

6. CONSOLIDATION AND CHANGE 1374-1387

The investigation of aldermanic malpractice in orphan matters undertaken in Chapter 5 was an unexpected by-product of investigations into the most serious cases of intervention in the post-Black Death period. That three of those aldermen were later accused of more systemic abuses of power in the 1376 'Good Parliament' may be coincidental, but perhaps now less surprising. In that parliament, John Pecche and Adam de Bury (along with a third alderman, Richard Lyons) were charged with maladministration relating principally to monopolistic trade practices, and subsequently removed from office, disenfranchised, and further punished with varying fines, imprisonments and confiscation of city properties. John Wroth came under strong suspicion but ultimately escaped the same fate.¹ The Good Parliament triggered a constitutional storm in London of such intensity that the very core of civic practice up to that point, the city ordinances themselves, were brought into question. Wardship abuses were not specifically mentioned in the aldermanic transgressions, but there were enough cases of serious intervention accumulating in the Letter Books to suggest that they too were getting out of hand. The subsequent outcry for a more transparent city government did, however, result in an overhaul of wardship procedure that would long endure. What is notable is that this overhaul happened at this time and largely during the tenure of one city officer, the common sergeant, Ralph Strode. This chapter will examine Strode's substantial influence upon orphan matters with a case study of his administration, set against the background of the constitutional crisis of the 1370s and 1380s.

¹ Bird, *Turbulent London*, 17-29

6.1 CIVIC CONCERNS AND THE JUBILEE BOOK

Three months after the disgraced aldermen had been ousted in the Good Parliament, on 1 August 1376, a complaint was brought before the mayor and aldermen. The outcry appears to have been one of discontent with civic accountability and transparency. The commonalty, speaking through the voice of their legal representative the common sergeant, requested that the mayor set up a committee to review the ordinances of the city and overhaul them for relevance to current circumstance: a check and balance act against the corruption brought so glaringly into the public eye at the recent parliament. The committee was formed and, two years later, in September 1378, it produced a 'Book of Ordinances' which subsequently became known as the Jubilee Book.² This was reviewed by the mayor of the time, Nicholas Brembre, and after a few committee-approved amendments, became, at least for a few years, the new operating manual of the civic government. The book was probably written in English and contained, possibly for the first time, written oaths to be sworn by key civic officials, making them accountable to the people they represented.³ It also contained new ordinances regulating that accountability and enabling more transparent government activity. As such it proved highly controversial. As early as 1381 there was an attempt to burn the book.⁴ In 1384 it was revised after the constitutional changes brought about in 1376 were reversed by subsequent administrations. By 1387, it was claimed to

² It is thought that the Book was named for the fact that the decision to compile it was taken within the year January 1376–January 1377 in which Edward III celebrated his golden jubilee. *The London Jubilee Book 1376-1387*: an edition of Trinity College, Cambridge MS 0.3.11. folios 133–57 ed. C.M. Barron and L. Wright (London Record Society, 2021. Forthcoming) Introduction.

³ The copy found in Trinity College was written in English in a fifteenth century hand. *Jubilee Book*, ed. Barron and Wright, Introduction.

⁴ *Memorials*, ed. Riley, 404; *CLBH*, 303

have given rise to such 'great controversies, dissensions and disputes that it was taken out into the yard of the Guildhall and burned.'⁵

This overhaul of the machinery of civic government and in particular, this review and its (albeit transient) transparency, is of great relevance to the evolution of the eventual court of orphans. The post-Black Death lack of integrity in managing wardship resulted in the densest period of 'corruption' cases recorded in surviving civic records, notably, almost always at the instigation of the orphans or parties acting on their behalf.⁶ This lack of government awareness into the realities of wardship mismanagement was the result of an acknowledged, but weak, civic wardship process that was destabilising further in the wake of the Black Death. London had never reconciled declarations of high policy with administrative procedure in the decades before the plague. It had not needed to. When dealing with the largely common law transfers of property in legacies through the husting court in the early fourteenth century, a general oversight had been enough. In the high-mortality aftermath of a demographic disaster, it was not. As a consequence, it is plausible to suggest that the abuse of orphans' rights and interests was a contributory factor in the complaints brought up by the commonalty against the aldermen in August 1376, and that

⁵ The book was consequently thought to have been lost, but a version did survive and was copied into manuscript MS O.3.11, now in Trinity College Cambridge Library. *Jubilee Book*, ed. Barron and Wright, Introduction.

⁶ This ability to request civic intervention during the term of a wardship, and have it granted, was unusual. In rural manor courts minors were able to bring a complaint against the management of their wardship or query any changes made on their land, but only at the point of inheritance. Sheridan Walker discusses male and female feudal heirs pushing back against arranged marriages and concludes that the evidence suggests that this was not an impossible option if they were prepared to pay a marriage tax. It would seem, however, that London children had more flexibility, and support, in their rights to appeal. Muller, *Childhood*, 84. Sheridan Walker, 'Free Consent', 123-9

this was one aspect of civic administration that the citizens believed needed to be taken in hand.

THE JUBILEE BOOK AND ORPHAN MATTERS

That meeting of 1 August 1376 led to the creation of the Book of Ordinances known as the Jubilee Book. This revised book of city regulations is relevant to the evolution of the court of orphans for several reasons, not least in that it contained the first recorded oaths of many city officers, including those parts which related to the care of minors. The civic oaths calendared in Letter Book D (which, in itself, dates from 1309–14) are misleading.⁷ Some, including the mayor's oath, have been identified by their handwriting in the manuscript as early fourteenth century, but there are duplicates (some written on the flyleaves) in what has been identified as a fifteenth-century hand.⁸ What can be inferred is that the first recorded instances of the oaths of the recorder, the mayor, the aldermen, the chamberlain, and the common sergeant, to include the promise to 'maintain and serve the rights of orphans', were in the Jubilee Book of 1378.⁹

It is clear that the compilers sought to make civic government accountable, open and far more transparent than it had been prior to the events of the Good Parliament of 1376. Aside from writing accountability for the protection of the city's minors into the oaths of those in highest civic office, the book also confirms the same expectations of the common sergeant and the chamberlain. These two civic officers would become principally responsible for orphan management in the fifteenth century, and it is here, by decree of the new ordinances,

⁷ *CLBD*, 1-13, 33-35

⁸ COL/AD/01/004, (Letter Book D) f. 7v; *Jubilee Book*, ed. Barron and Wright, Introduction.

⁹ The oath of the mayor in the Jubilee Book contained a clause on the protection of orphans. Thereafter, in the fifteenth century flyleaf version and that written into *Liber Albus*, it did not. Comparisons between the Jubilee Book and *Liber Albus* are discussed further in Chapter 7.

that it was determined that they were to be elected by the common council and thus answerable to the commonalty. Finally, the section on wardmote articles in the Jubilee Book contained an instruction for orphan concerns to be presented and investigated in wardmote, encouraging communal awareness and the upward reporting of potential malpractice.

The common sergeant who brought that complaint on 1 August 1376, on behalf of the commonalty, was Ralph Strode. There is some circumstantial evidence to suggest that Strode may have been the compiler of the Jubilee Book and he certainly played a visible part in the turbulent city politics that marked the last decade of his life. But Ralph Strode also stands out as the one civic official who did the most, within any defined period contained in this study, to bring law and ancient custom together into one whole and effective process for wardship. He was a reformer and an organizer, and both his insight and the changes he brought about during his time in office, were far reaching enough to suggest that Ralph Strode's reforms were the catalyst for the creation of the defined and managed process that eventually became the early modern court of orphans.

6.2 RALPH STRODE AND WARDSHIP: A CASE STUDY

Why does Strode stand out in orphan matters? Even during the earliest analysis of wardship cases for this study, the recorded instances of his name suggested something unusual, and early assessments placed an unusually large volume of business during his tenure: some 181 transactions, half as many again as his predecessor and three times as many as the pre-plague holders of the office. Thereafter, an analysis of orphans' rendered accounts in the Letter Books showed that the majority were recorded during his time in office. An assessment of civic officers named in court, over time, in Chapter 4 [Figure 4.2] put the distinct changeover from mayor and aldermen to mayor and chamberlain right in the middle of Strode's period as common sergeant, as did an analysis of when the records of

orphan cases started referring to orphans' (moveable goods) portions as well as legacy inheritances. Even during the research for the fifteenth century, it became apparent that Strode's use of the bond system meant that he had effectively been using a form of *assumpsit* half a century before the civic administration adopted it.¹⁰ It seemed clear that Ralph Strode's period as common sergeant warranted a detailed examination. The findings suggest that his appointment as common sergeant coincided with a watershed in the evolution of the London's court of orphans: during his tenure, his care in the investigation of orphan matters (and the recording of them) set him apart from his predecessors, but it was his far-reaching reforms of administrative procedure that were to be his real legacy.

CIVIC CAREER

The role of the common sergeant (sometimes styled common pleader or common counter) that was so critical to the early modern court of orphans' procedure, as it is outlined in the Chapter 1, is not obvious from the manner in which the orphan cases are written up in the civic records in the fourteenth, or even the fifteenth, century. By and large this is a silent function, barely mentioned by either title or named incumbent, although as a paid civic office it required literacy, education, legal knowledge (at least of the city court mechanisms) and, alongside the office of chamberlain and common sergeant-at-arms with whom it functioned in close collaboration, the swearing of an oath from at least the last quarter of the fourteenth century.¹¹

¹⁰ Assumpsit and its connotations for London wardship are explained and discussed in detail in Chapter 7.

¹¹ *Jubilee Book*, ed. Barron and Wright, Introduction.

6: Consolidation and Change

The earliest reference to a named incumbent appears at the end of the thirteenth century with a first recorded appointment appearing in 1319.¹² Chronologically (the Jubilee Book aside) it was not until the compilation of *Liber Albus* in 1419, a century later, that we have any indication of the responsibilities the post holder was expected, and by that time sworn in under oath, to carry out. By the early fifteenth century, the accountabilities and responsibilities of the common sergeant seem to have become more clearly defined. The office was the legal defence for London freemen in the city's courts and, by default, their children. The post-holder had to be a man who was capable of defending or prosecuting on behalf of wronged citizens in London's courts and who swore to 'pursue, save [serve] and maintain' the rights of orphans.¹³ The two elements of the role, common sergeant and common pleader, were formally separated in the early sixteenth century and by that time had been distilled into dealing almost exclusively with the extensive business of the court of orphans, in which the office of the common sergeant played a significant role.¹⁴

Notwithstanding the elusiveness of specific common sergeant responsibilities in the fourteenth century, there exists one barometer of the post's activity: the swell in the

¹² Ralph Pecock, c.1293 and Geoffrey de Norton, 1319. *London Assize of Nuisance 1301–1431: A Calendar* ed. H. Chew and W. Kellaway (London Record Society, 1973) [British History Online](#), xxix; *CLBE*, 20

¹³ *Liber Albus*, ed. Riley, 269; On the office of the common sergeant see, B. Masters, 'The Common Sergeant', *Guildhall Miscellany*, 2 (1967), 379–89; Barron, *LLMA*, 189–90, 359. Although at least two incumbents are described as attorneys, Reginald Wolleward, 1328–30, and Adam de Acres, 1351–6, there is no evidence to suggest that the postholder had to be a common-law qualified lawyer: only that he must be proficient enough in merchant and customary law to practise within the confines of the city courts. *Assize of Nuisance* ed. Chew and Kellaway, xxix, 54–69 (item 292), 69–85 (items 299, 302), 99–110 (items 449–50)

¹⁴ Barron, *LLMA*, 189. A H Thomas notes that while in the late fourteenth century, the common pleader and the common sergeant were essentially the same role, the two were finally separated out at the beginning of the sixteenth century. *CPMR 1364–81*, 169 [fn.1](#); COL/AD/01/013 (Letter Book N), f. 76r. Bohun mentions a common crier who is a subordinate of the common sergeant. Bohun, 291

numbers of recorded civic interventions to be found in the records of the post-Black Death decades. Without any regular procedural checks on the progression of ongoing guardianships, only a plea arising from an affected party would be likely to trigger any civic intervention; that plea would usually come through the common sergeant.¹⁵

Ralph Strode, however, is something of an exception to the rule of common sergeant invisibility. His London career can be traced in civic records from his appointment on 29 September 1373 through to just months before his death in 1387 and more is known of Strode's moral and ethical make up than most of his contemporary city officials.¹⁶

Outside of the role of common sergeant of London, the name of Ralph Strode is notable as that of a published philosopher, and a scholar of Merton College, who traded counter, but not unfriendly, academic arguments with John Wyclif, and who was a sufficiently respected friend of Geoffrey Chaucer to warrant a dedication in *Troilus and Criseyde*.¹⁷ Although it has been proposed that the London lawman and the Oxford scholar were in fact two persons of the same name, arguments are now being put forward to suggest that they are just one

¹⁵ John Wentebrige had brought the case against Sibil and John Sely in 1365, in the mayor's court. This is one of the very few occasions that a common sergeant is mentioned by name in an orphan case in any civic record before Ralph Strode. See Figure 6.1. *CPMR 1364–81*, 64

¹⁶ See the account of Strode in A. B. Emden, *A Biographical Register of the University of Oxford to A. D. 1500*, 3 vols (Oxford, 1957–9), iii. 1807–8; I. Gollancz in *Dictionary of National Biography*, ed. S. Lee and L. Stephen (London, 1898), 57–59; J. D. North in *Oxford Dictionary of National Biography* (online edition), 55 (2004); *The Riverside Chaucer*, ed. L. D. Benson, 3rd Edition (Oxford, 1987), 585 and notes, 1,058

¹⁷ Although a fifteenth century copy of one of Strode's works survives, much of what we know of his philosophies and dialogue with Wyclif is deduced from Wyclif's own responses, *Responsiones ad decem questiones magistri R. Strode* and *Responsiones ad argumenta Radulphi Strode*. North, 'Ralph Strode' (ODNB); C. Dulith Novaes, 'Ralph Strode's *Obligations*: The Return of Consistency and the Epistemic Turn' *Vivarium*, 44, no.2 (2006) 338–74

man.¹⁸ That the London Strode knew Wyclif and was associated with Oxford's Merton college is supported by a record of Wyclif and Strode, the common sergeant, appearing together as sureties for a parson in 1374, and another of Strode being named as mainpernor in a transaction involving land belonging to John Bloxham, Warden of Merton Hall.¹⁹ That Chaucer knew the London Strode is proved by a document of 1382 in which they both are named as sureties for the good behaviour of John Hende, the London draper and later mayor.²⁰ The main argument against the two being the same man focusses on the fact that the London Strode was a married man (he left a wife, Emma, and a son, also named Ralph, on his death in 1387) but it is plausible to suggest that an Oxford scholar may have left clerical orders and taken a legal role in London in order to *get* married.²¹ Academic debate on this matter has not, to date, proved wholly conclusive, but the prominence of Ralph Strode the London, common sergeant, suggests a man of particular intellectual ability, much like the Oxford Ralph Strode.²²

¹⁸ For the argument against see T. F. Tout, 'Literature and Learning in the English Civil Service in the Fourteenth Century' *Speculum* 4, no. 4, (1929), 365–89. Derek Pearsall and C. M. Barron argue the opposite. D. Pearsall, *The Life of Geoffrey Chaucer* (Oxford, 1992), 134. *Jubilee Book*, ed. Barron and Wright, Introduction

¹⁹ Benson, 'Riverside Chaucer' notes, 1058

²⁰ *Life Records of Chaucer*, ed. E.A. Bond, F.J. Furnivall, R.E.G. Kirk and W.D. Selby, 4 vols (London, 1900), 281–84

²¹ *Jubilee Book*, ed. Barron and Wright, Introduction.

²² On that intellectual ability, a couple of purely circumstantial points suggest that the two were, in fact, one. Strode the philosopher's published stance against Wyclif's anticlericalism argued that tolerance of minor abuse within the church was preferable to instability and disorder; a theme that, in a civic context, emerged as close to the heart of Strode, the London lawyer. His rejection of Wyclif's concept of pre-destination stemmed from the belief that it stripped the individual of personal accountability and responsibility for his own salvation. Stability, accountability, and responsibility were all strong themes in Strode the common sergeant's approach to the consolidation of wardship matters. Secondly, although the exact date of Strode the philosopher's *Obligationes et Consequenciones* [cont.]

The Ralph Strode who became common sergeant in September 1373 began his tenure with vigour. Just two years into it, the first unusual occurrence arose. On 27 October 1375, a grant was recorded by the mayor and aldermen “with the assent of the commonalty” to Ralph Strode, the common sergeant, of a mansion situated above Aldersgate “by reason of the good service...unto us done, and hereafter to be done.”²³ It was not unprecedented for civic officers to be granted good city accommodation throughout their term of office, but it was unprecedented for a common sergeant to be granted such a privilege, nor is there a record of any subsequent incumbent of the role receiving such remuneration.²⁴ What the ‘good service done’ is, is not specifically noted but it is very clear that either by his energy or his integrity, or a combination of both, Ralph Strode had made a strong impact on the city in his first two years in office.

The good service ‘hereafter to be done’ was forthcoming. Strode was a busy man. As well as his energy in orphan affairs (discussed below) he frequently put forward complaints and petitions to the mayor and aldermen on behalf of the commonalty and acted as the voice of the mayor and the city in a lengthy debate with the king over a disputed right of way.²⁵ He prosecuted frequently on behalf of the commonalty on matters of nuisance, fraud and

is unknown, it is known that, following his trial at St Pauls in 1378, and the subsequent fall out, Wyclif spent his time quietly defending his theologies in published form. If it was then that he wrote his ‘*Responsiones ad decem questiones magistri R. Strode*’ and ‘*Responsiones ad argumenta Radulphi Strode*’ then it might be feasible to suggest that Strode wrote the original counter argument at some point during the two-year period (1378–80) in which he is largely absent from the civic records and, during which time, Wyclif was in London. For a discussion on Wyclif’s relationship with Strode, see H. B. Workman, *John Wyclif*, 2 vols (Oxford, 1926) I 243; ii. 125–129, 412–14

²³ *Memorials*, ed. Riley, 388

²⁴ Strode’s friend Geoffrey Chaucer had been leased a similar house over Aldgate in the preceding year. *CLBH*, 15

²⁵ *CLBH*, 12, 38, 89; *Memorials*, ed. Riley, 376, 414, 417

extortion and appears to have been allowed to prosecute as a private attorney retained by individuals and even crafts.²⁶

On 4 November 1377, his service as common sergeant was further recognized when Nicholas Brembre, the mayor, converted the grant of the Aldersgate mansion from tenure during office to tenure for life.²⁷ This heralded a period of two years where Strode, so industrious and omnipresent up to that point, disappeared from the civic annals.²⁸ When he appears again in the records, from May 1380 through to October 1381, it is almost exclusively as a presence in court when guardians rendered accounts rather than in the context of acting as the spokesmen for the commons.²⁹

Nicholas Brembre's grant of the Aldersgate mansion for life and his subsequent interventions on Strode's behalf suggests that he was a supporter of Strode's work, and Strode's dismissal, or resignation from office, during the mayoralty of Brembre's political adversary, John Northampton, might suggest that the latter was not. However, it is too much to assume that Strode was staunchly in Brembre's party. Strode's support of the commonalty and smaller crafts in his civic work, and his drive to have their voice heard and to hold the civic elite to accountable to them, could be argued to place his politics more in the camp of Northampton than Brembre.³⁰ In fact, however, his drive to reform and change

²⁶ *CPMR 1364–81*, 174, 186, 187, 189, 203, 226, 228; *Memorials*, ed. Riley, 396, 399, 408, 443, 448; *CLBH*, 8, 73

²⁷ *CLBH*, 83

²⁸ Perhaps because he was working on the Jubilee Book. Perhaps because he was engaged in dialogue with Wyclif. Perhaps both.

²⁹ There is one exception where Strode successfully prosecuted on behalf of the commonalty one William Fot of Oxford who had brought to London '18 pigeons ... putrid and stinking...and exposed the same for sale; in contempt of the City of London.' *Memorials*, ed. Riley, 448

³⁰ He fought a very thorough case to bring justice to the orphan John Costantyn, Northampton's friend, relative-by marriage and possible protege. See Chapter 5.

city procedure appears, overall, to have been distinctly unpartisan. For unknown reasons, at some time during Northampton's term of office as mayor in 1381-2, Ralph Strode either resigned or was forced from his office as common sergeant.³¹

Although he never again held civic office, Strode's contribution to London's city governance was not over. In July 1384, his name appears again when the city, under Brembre who was once more holding the mayoralty, awarded him compensation of 4 marks a year to be paid from the city chamber for the loss of the Aldersgate mansion 'from which he had been speciously ousted during the mayoralty of John de Northampton'. This financial allowance was confirmed for life by Brembre on 4 May 1386. Nineteen days later, an indenture was drawn up between Brembre, the aldermen, the commonalty and Ralph Strode whereby Strode was to be retained by the city as standing counsel for seven years and was to receive an annuity of 20 marks and the same livery as the chamberlain and common sergeant. This was certainly an unprecedented appointment and would appear to recognise the high regard in which Strode was held in the city. This position of counsel was over and above that which the city would normally retain. The office of common sergeant remained (John Reche had taken up the appointment in 1382) providing continuity in the provision of legal counsel for the commons in the city courts. Both of these transactions, although presumably enacted on the dates noted, do not appear in the city's Letter Books until 18 October when the newly elected mayor, Nicholas Extone, endorsed and recorded them.³²

³¹ There are two references to Strode's downfall from civic grace. A short note attached to the entry in Letter Book H where Brembre grants Aldersgate to Strode for life states that this was ordered by the mayor, aldermen and common council to be cancelled. *CLBH*, 83 and [fn. 1](#). At a meeting of the Common Council on 11 December 1382 after Northampton had been elected mayor for a second consecutive year, the Aldersgate mansion that he had forfeited his entitlement to having 'of his own accord, relinquished his office' was granted elsewhere. *CLBH*, 245 and [fn. 1](#)

³² *CLBH*, 245, 287-8

Strode continued to be held in high regard, regardless of the ebb and flow of factional politics and the loss of his office, until his death sometime in the following year. His last recorded action was on 17 April 1387, acting in his capacity as city counsel. He died at some point before 31 March 1388. His will was proved in the archdeaconry court of London between January and March 1388 but has since been lost.³³ It is known that he left a wife Emma and a son Ralph who was of age.³⁴

STRODE AND WARDSHIP

In even a cursory reading of London orphan cases, Ralph Strode is noticeable by the sheer number of times his name is written into transactions. Further analysis, comparing him to previous and successive holders of the office, presented an immediate anomaly: Figure 6.1 shows that no other common sergeant matched him for named presence in the records. This may or may not suggest a more frequent presence in court than his predecessors, or the recording of his name in court cases may simply, but effectively, have been done to promote the importance and responsibilities of that civic office whose role it was to defend citizen and orphan rights.

Of the thirty-nine transactions where Strode is named, nine refer to him in the third person and relate to his career.³⁵ The remaining thirty constitute a recorded physical presence in the city courts when prosecuting, defending or petitioning on behalf of the commonalty.

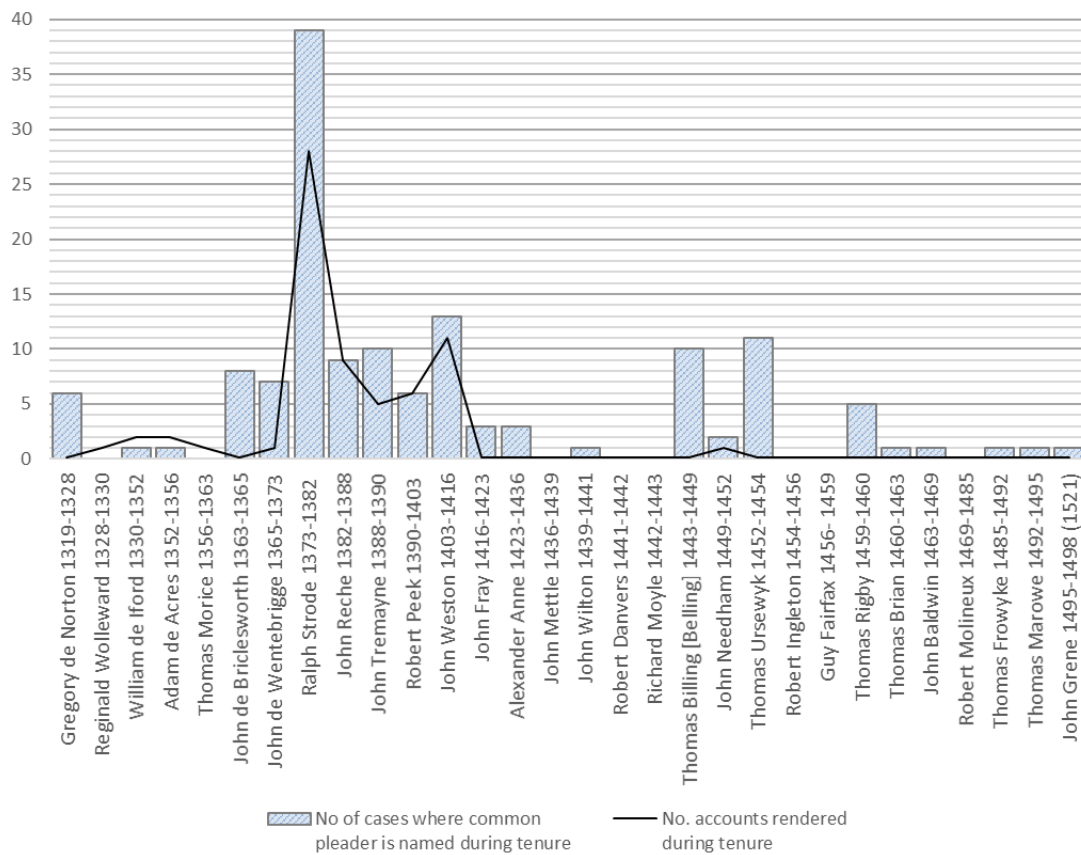
³³ The folio on which the enrolment of Strode's will was recorded is now missing from the register. *Testamentary Records in the Archdeaconry Court of London*, ed. M. Fitch (British Record Society, 1979), 362

³⁴ Emma's will survived and was enrolled in the commissary court at Easter 1394. *Index to Testamentary Records in the Commissary Court of London (London Division) now Preserved in the Guildhall Library, London, 1: 1374–1488*, ed. M. Fitch (1969), 177

³⁵ *CLBG*, 317; *CLBH*, 38, 83, 208, 245, 287, 306; *Memorials*, ed. Riley, 388; *CPMR 1381–1413*, 16

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FIGURE 6-1: NUMBER OF TIMES COMMON SERGEANTS ARE NAMED IN CIVIC RECORDS DURING TENURE OF OFFICE, BY TRANSACTION



Sources: *CLBE-L*; *CPMR* i-vi; *Jor.*, i-iv

Eighteen prosecutions relate to civic concerns;³⁶ twelve relate to Ralph Strode's presence in court, when defending the rights of city orphans.³⁷ So, it is clear that he did much to increase the visibility, accountability and, by association, the *authority* of the role of common sergeant.

It was not just his presence in court that singled Strode out, however, but his industry. In terms of the number of orphan cases dealt with during his tenure in office, he was exceeded

³⁶ *CPMR* 1364-81, 174, 186, 187, 189, 203, 226, 228, 242; *Memorials*, ed. Riley, 376, 396, 399, 408, 414, 417, 433, 448; *CLBH*, 12, 38

³⁷ *CPMR* 1364-81, 169, 265; *CLBG*, 201, 217, 249; *CLBH*, 33, 14, 28, 53, 72, 84, 169

only by two other common sergeants, both in the fifteenth century [Figure 6.2]. The tenure for the common sergeant was not standard, but even when this is evened out by the presentation of an average number of cases heard per month in office, Strode's industry is still evident. His nine years in office yield the highest annual average of orphan cases managed during tenure of any common sergeant to that point – and is only subsequently surpassed by three others. Clearly, the volume of orphan cases brought before the mayor and aldermen is as dependent on the mortality rate of fathers as it is on the assiduousness of the prosecuting officer, but it should be remembered that, in the fourteenth century, most guardianships were still testamentary only and those which appear in the civic records were recorded because an invested party desired it. As such, it is plausible that this rise in numbers demonstrates, at least in part, an upturn in the conscientiousness of the common sergeant, as a defender of orphans' rights. Strode may also have been responding positively to a general concern about orphan matters arising out of the city's concerns with government transparency.³⁸

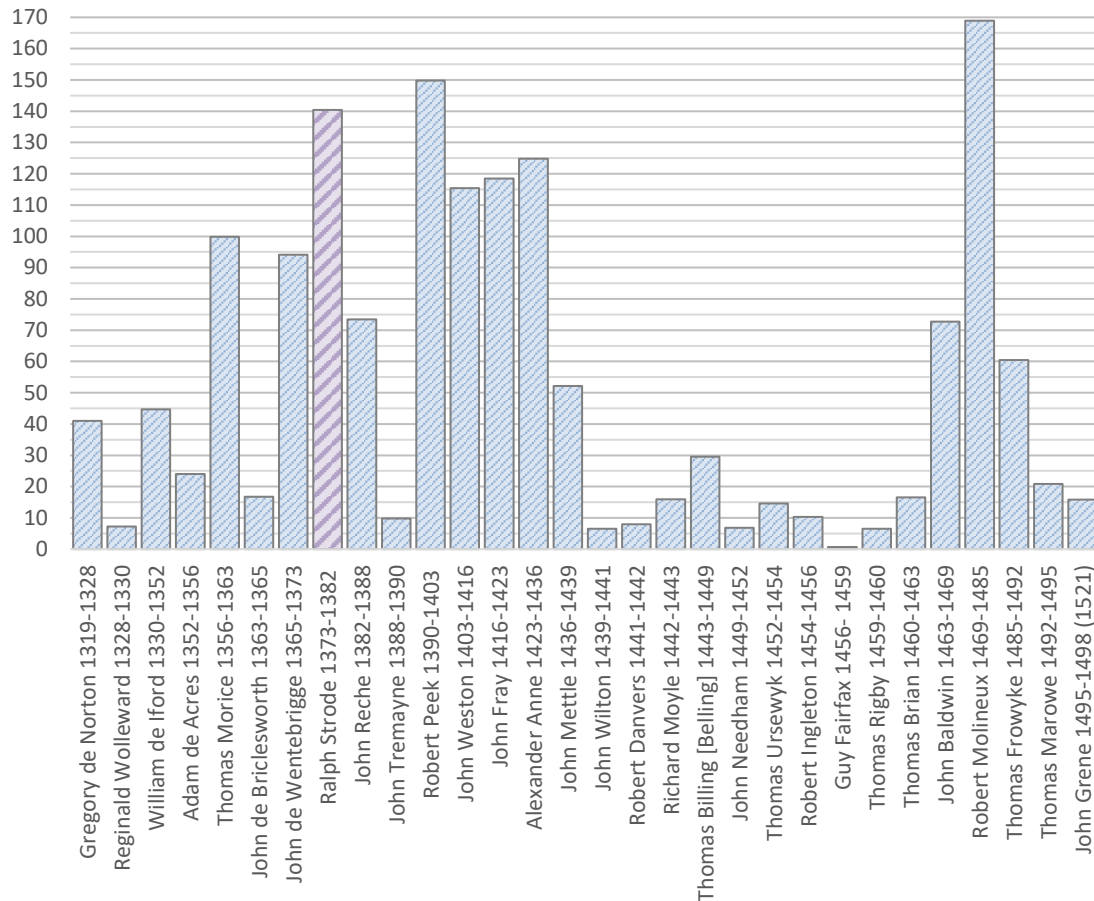
EXECUTION OF OFFICE

Numbers alone, however, do not necessarily prove industry, but further analysis shows that this unprecedented volume of cases was executed with an exceptional thoroughness. Analysis of the transactions in this case study reveals a surprisingly clear method of operating. Orphan activity recorded throughout Strode's tenure follows a neat pattern: the correction of wrongs appear, for the greater part, in the first four years as he tackled cases already in progress, thereafter settling into a steady trend of rendering accounts and

³⁸ *Jubilee Book*, ed. Barron and Wright, Introduction.

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FIGURE 6-2: NUMBER OF ORPHAN CASES [BY FAMILY] RECORDED IN THE CIVIC RECORDS DURING THE TENURE OF EACH COMMON SERGEANT³⁹



Sources: *CLBE-L*; *CPMR* i-vi; *Jor.*, i-iv

ensuring the correct transfer of patrimonies to guardians or into the city chamber, and ending with a neat emphasis on ensuring, or protecting, orphans' rights.

CORRECTION OF MALPRACTICE

It seems clear that Strode entered office with intent. In the two decades prior to his appointment, numerous cases of underage marriage and abuse of wardship had been

³⁹ Strode dealt with 140 families, yielding 181 transactions during his time in office.

brought into the city courts. The two common sergeants in office prior to him may well have been doing their job in bringing these documented cases to the attention of the mayor and aldermen (although, as has been shown, many were also missed or went unrecorded) but the city does not appear to have got to grips with the basic failure in its accountability, nor the lack of integrity in procedure, that lay at the root of the problem. Strode, from the moment that he took office, sought to rectify those flaws.

Amongst the cases in his first three years in office, it is notable just how many of the recorded transactions illustrate the fixing of something that had gone wrong (or had been omitted) before his tenure. Strode's first case, recorded in December 1373, dealt with malpractice. William Cotegrave, who had married Isabella Poulesholte, came into court to claim her patrimony. Strode had the guardian render account, as was the process, and recorded it.⁴⁰ But he also had Cotegrave committed to prison until he paid one third of the value of the patrimony (the value of the marriage) as a fine. This was not the first time that a fine had been imposed for a marriage undertaken without the consent of the mayor and aldermen but it had been a surprisingly rare (recorded) action in the proceeding decades when such a blatant disregard for process had been more common than the civic records reveal.⁴¹ With this case, Strode set out his policy clearly and began a thorough investigation into all the cases of orphans then in the city's care, resulting in a period of rectification and correction.

Just eleven days after the Poultesholte case, Strode brought to court another two cases of orphans at risk. Andrew Hoo had been accused of selling the marriage of his ward Stephen

⁴⁰ The details of Isabella's guardianship are crammed into a tiny space in the manuscript of Letter Book G, directly following the initial recording of her guardian being appointed. COL/AD/01/007 (Letter Book G), f. 315v

⁴¹ See Chapter 5.

atte Halle, 'at a great price'. At Strode's request, the boy was taken into the custody of the mayor until the matter could be resolved. In this instance, resolution was beyond the common sergeant's control: when the purchaser brought a bill of complaint against the city, proving that Stephen's father had not been a freeman, the mayor and aldermen were forced to concede that they had no right of control over the marriage and had to give the boy up.⁴² On the same day, however, a similar case was brought regarding the four children of Richard de Sutton. It is recorded that Strode himself sought to bring the case to court.⁴³ He had discovered that the new husband of the children's mother had taken over the patrimony from his wife but had never found surety. The mother had died, and the children and their inheritance were thus now at risk. Strode had the stepfather brought into court and investigated (presumably to render an account) but it was discovered again that the children's father had not actually been a freeman of the city. While the mayor and aldermen had been powerless to intervene for Stephen atte Halle, in this case Strode brokered a solution for the Sutton children, arranging an arbitration between the stepfather and the children's grandmother, and overseeing an agreement for the separation of the guardianship of the patrimony from the maintenance and care of the children themselves. Responsibility for the management of the inheritance remained with the stepfather and the children went to live with their grandmother.⁴⁴

Six weeks later, on 2 February 1374, it was noted that the sureties of William de Harewedone had handed over to the chamberlain the sum of 40 marks in total in trust for

⁴² *CPMR 1364–81*, 170

⁴³ While it was later acknowledged in oaths and civic customals that this was the job of the common sergeant, Strode seemed to have made a point of proactively seeking out wrongs and bringing guardians to account. This is one of the reasons why he may have had a hand in the compilation of the Jubilee Book and its inclusion of orphans in civic oaths.

⁴⁴ *CPMR 1364–81*, 169

his ward and niece, Johanna. William had died and his sureties had consequently been made to honour their oath to protect his guardianship of the child's patrimony, passing it into the safe keeping of the city.⁴⁵

Just six days later on 10 February, another memorandum recorded a transaction that had taken place in May of the previous year. Then, John Pountefreyt had given up the guardianship to which he had been appointed in the will of Henry Bretford in 1370. Bretford's son John had been apprenticed to Thomas atte Halle and, at that point, Pountefreyt had handed over the boy's patrimony of property, a seal and a silver chain, to the chamberlain. No account had been rendered and no record made of who was thereafter accountable for the boy's welfare.⁴⁶ In February 1374 under Strode's instruction, Pountefryt, young John, his master, Thomas atte Halle, and the chamberlain, John de Cauntebrigge, all came into court where Pountefreyt properly rendered an account. It was recorded that the chamberlain had held the boy in his care for the interim period of twenty-seven weeks, for which he claimed proper allowance from the patrimony. It was then officially noted that while Halle would retain custody of John as his apprentice, Pountefreyt would take on guardianship of the patrimony until he came of age. This was ratified with the appointment of sureties. In 1378, the case was brought to a satisfying conclusion when John came of age and Pountefreyt again rendered a full account before handing over the inheritance.⁴⁷ This is the first instance of the formalization of an orphan's affairs: a direct effort to put right a lingeringly unclear situation and a formal recording of the procedure to protect the child, that was to be characteristic of Strode's methods.

⁴⁵ *CLBG*, 320

⁴⁶ *CLBG*, 307. Henry Bretford's will was enrolled in January 1370. *CWCH* ii. 133

⁴⁷ *CLBG*, 320

In May 1374, the terms of guardianship written in the will of Richard Russell, paternosterer, were read aloud in court and two children perceived to be at risk, Richard and Lucy, were placed in the custody of the mayor until August, when the executors were instructed to find and bring surety.⁴⁸ When the executors subsequently appeared on the appointed date, but refused the wardship of the children, matters were settled quickly and Richard was committed to the guardianship of John Leycestre the “king’s changer in the Tower” within a fortnight.⁴⁹ To close his first year in office, Strode facilitated the final recorded conclusion of a case that had been drifting for thirteen years when he secured the transfer of money from a guardian back to a father’s executors, for an orphan who had died in 1361.⁵⁰

There are several further instances of Strode resolving complex cases, most of which had originated well before his tenure. He was the official behind the resolution of the long, complicated and dubiously recorded, wardship of John Costantyn; Strode brought John Pecche to account in 1379 for his corrupt guardianship and for the forced marriage of the boy to Pecche’s daughter and had him imprisoned for his final withholding of monies once the account had been rendered.⁵¹ In addition to the cases of John Costantyn and Isabella Poultesdale, Strode resolved a further two instances of underage marriage.⁵² Where he put wrongs right there was always careful investigation and the diligent recording of outcomes and instruction for the further management of the case. Strode was behind the case, in 1375, when the orphan, John Lucas asked to change masters because his current master, the

⁴⁸ Russell’s will was enrolled in April 1374. *CWCH* ii. 160

⁴⁹ *CLBG*, 326

⁵⁰ Richard Russell, girdler, declared that Margaret Cadoun, his ward, had died on Sunday the feast of St Mark in 1361 and then paid £20 into the chamberlain for re-direction to her father’s executors under the terms of his will. *CLBG*, 105

⁵¹ *CLBH*, 141. See Chapter 5.

⁵² John Gartone in 1376 and Alice Reyner in 1380. *CLBH*, 52, 10

goldsmith Simon atte Wode, had been abroad for so long, that he was learning nothing. It was Strode who ensured that it was recorded who had appointed the boy's guardianship in the first instance, and brought atte Wode's wife to court to swear that her husband held no shop in the city and had left no instruction for the teaching of the boy. John and his patrimony were granted instead to Robert Fraunceys, another goldsmith.⁵³

In 1376, the guardianship of nine-year old John de Gartone, who had been married with the assent of his father during his lifetime, was given to the boy's father-in-law, John de Bas, but only after four men of Chepe ward and eight men of Broadstreet ward had sworn before the court that the father's assent had been given. It was further recorded, as a reminder of civic policy, that, should young John's wife die while he was still in minority, the boy must not be married again without the consent of the mayor.⁵⁴

In another case, when Richard Russell, the young man who had been placed with the king's changer in 1374, then became apprenticed to Thomas Norrys to learn his father's trade of paternosterer and, at the age of seventeen, requested his inheritance to set up trade by himself, it was only granted when a fishmonger undertook, under penalty of a payment of £100 to the chamberlain, not to let Richard sell any of his property or misuse his inheritance until the age of twenty-one.⁵⁵ In 1378, the two executors of John Ratford, glover, at the specific suit of Ralph Strode, were brought before the court and forbidden to sell property

⁵³ *CPMR 1364–81*, 195

⁵⁴ She did, three years before he came of age and John de Bas dutifully rendered a full account on his ward's coming of age in 1388. *CLBH*, 52

⁵⁵ *CLBH*, 15

devised by John or distribute the proceeds amongst his four children without previously consulting the mayor and aldermen.⁵⁶

These cases in their thoroughness, completeness and rapid succession show a common sergeant who was proactive in seeking out abuses, taking firm action to protect the inheritances and welfare of city orphans, and to have all the transactions recorded correctly and in detail.

RENDERING OF ACCOUNTS

Strode's time in office settled, after a few years of righting wrongs, into a steady recording of new guardianships, oversight of the transfers of monies and the rendering of accounts when wardships came to an end; in other words, for the first time, executing and recording the wardship process thoroughly, as it was meant to be done. Another aspect of this period was the recording (in the Letter Books) of orphan accounts, which occurs considerably more frequently during these years. There are four points of significance here. First, the sheer number of accounts that were rendered during Strode's time in comparison to all the other common sergeants [Figure 6.3]. The second and third relate to the nature of those transactions – when in the process they were declared in court and the persons in whose presence they were recorded. The fourth is the fact that these accounts were written up in full detail in civic registers.

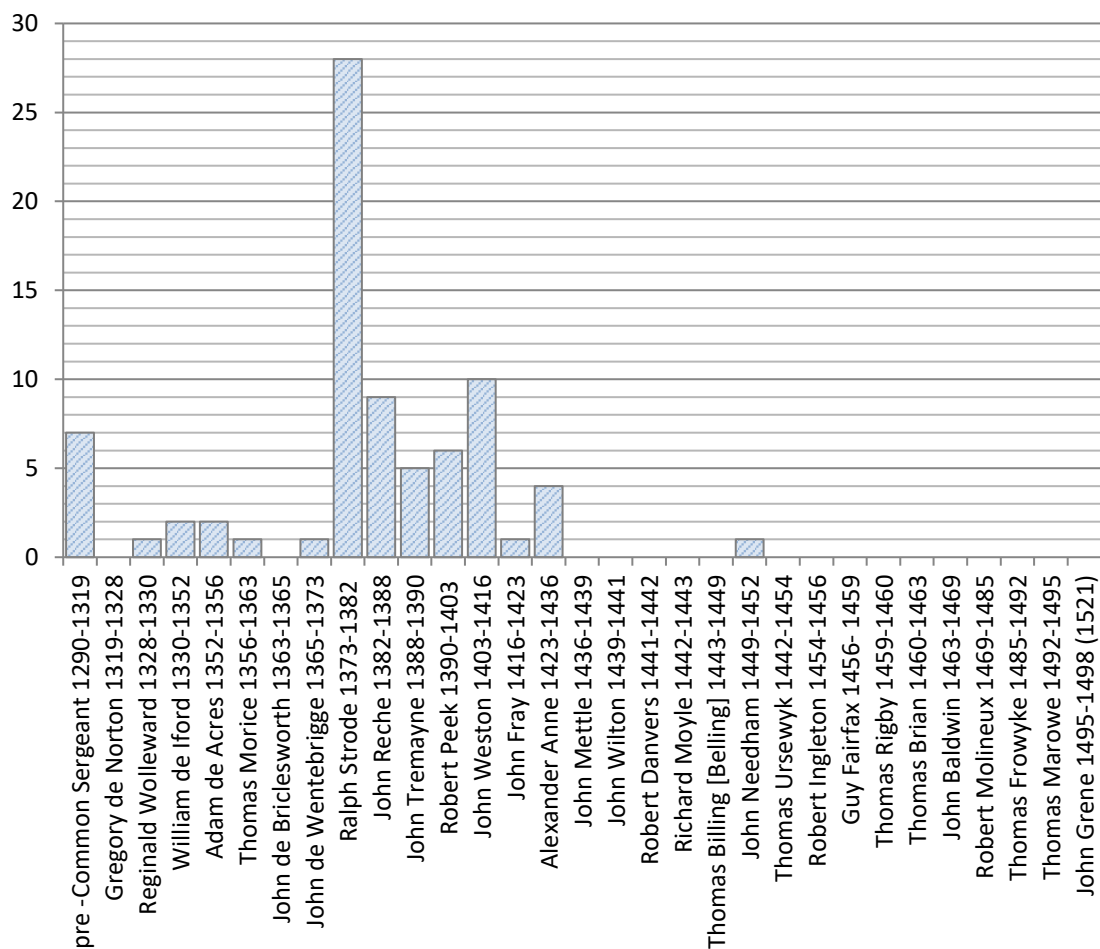
Common law and city policy laid down that a wardship should end with the guardian rendering a full account of his or her financial management of any orphan's patrimony and

⁵⁶ *CLBH*, 84. William Piltone, one of those executors finally handed £46 to the chamberlain in 1382 for Walter, William, Thomas and John. Thomas and Walter died, but John and William were apprenticed, grants were made to their masters for their upkeep and both came of age to claim their inheritance in 1383 and 1389 respectively. *CLBH*, 187–88

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maintenance during minority, regardless of whether or not the child survived to maturity or came of age. It is very possible, certainly from the mid fifteenth century onwards, that some details of rendered accounts were recorded in the chamberlains' accounts, which have not survived.⁵⁷ But in the fourteenth, the civic expectation was to add them to the end

FIGURE 6-3: NUMBER OF CASES, PER COMMON SERGEANT, WHERE A RENDERED ACCOUNT IS RECORDED IN THE CIVIC RECORDS



Sources: *CLBE-L*; *CPMR* i-vi

⁵⁷ The chamberlain's accounts of 1584-5/1585-6 refer to ledgers which held the detail of individual orphan accounts. *Chamber Accounts*, ed. Masters 9-10, 62

of any wardship proceedings captured in the mayor's or aldermen's court records, where space was almost always left for them in the manuscript.⁵⁸ Of a total of seventy-eight rendered accounts recorded in Letter Books A–L, twenty-eight of them (that is, twenty-eight individual orphans from twenty-four different families or 35.4% of the whole) are recorded during the years 1373–82.

The nearest counts belong to that of Strode's successor, John Reche, and to the early fifteenth century pleader, Robert Peek, who oversaw nine and ten individual cases of recorded rendered accounts respectively, all from different families. Perhaps of greater significance, and more illustrative of careful recording practice; of the forty-five orphans who came of age or otherwise qualified for an inheritance during Strode's tenure of office, only four have unrecorded outcomes.⁵⁹ Twenty-eight of the forty-five had accounts rendered, seven received their patrimonies directly from the chamberlain, having had no financial guardian to hold to account apart from the city, three were already of age when their father died and had monies transferred directly, one entered a monastery and his inheritance was transferred there, one case saw the sureties deliver up a full patrimony between them after a guardian had died, and one, under the terms of guardianship in the father's will, did not require an account to be rendered.⁶⁰ This integrity is perhaps the most

⁵⁸ In the majority of orphan cases, these were left blank. Sharpe notes the existence of a rendered account in the calendars of the city Letter Books, but usually fails to supply the details. However, for the seventy-eight cases, where a rendered account is mentioned, varying detail does exist in the original manuscript.

⁵⁹ Richard Westmelne, 1375, Thomas Pountefreyt, 1378, Michael Westminster, 1378, John de Macchynges, 1379. It is interesting that three of these fell during the time that Strode may have been largely absent from the day-to-day business of his office. *CLBG*, 152, 164; *CLBH*, 19, 103

⁶⁰ Accounts rendered: *CLBG*, 200, 217, 248, 285, 316, 317, 320, 321, 323; *CLBH*, 5, 14, 23, 28, 33, 52, 66, 75, 82, 140, 141, 144, 148, 165. Closed with no account rendered: *CLBG*, 82, 193; *CLBH*, 7, 9, 19, 21, 45, 73, 103, 144, 190

solid evidence of Strode's understanding of the necessity for the legal accountability of wardships – from start to finish – and bears witness to his efforts to ensure the responsibility of civic government and guardians. It is also the first example of a thoroughness and completion in recording accountability that had become a matter of course by the mid-sixteenth century.

On the second point, prior to Strode's time, all but four of the fourteen rendered accounts recorded were undertaken not at the end of the guardianship, but at some point during it.⁶¹ Two were presented when the guardian had died, but the child was still underage, warranting a handover to someone else.⁶² Most, it seems, were when an intervention was required by the city or were actually the accounts of executors handing over inheritances to mothers or other guardians; a part of the process which later became the management of orphan's inventories, and which were administered through the offices of the common sergeant and the chamberlain.⁶³ The executors of Gilbert de Marche were compelled to render account in 1301 for the three years during which his stepchildren were in his guardianship.⁶⁴ John Maheu was required by the mayor and three aldermen to render account in 1310 for Andrew, Richard and Henry le Platier when his guardianship was deemed suspect by those to whom two of the boys had been apprenticed. Maheu was found

⁶¹ Just one – that of Margery de Stertford in 1317 – was rendered at her coming of age. The guardian, John Lucas, fishmonger was acquitted, and the £20 inheritance was paid out to Margery. There is no recorded evidence that she had married. *CLBC*, 94. John Hanyngton requested and received his inheritance in 1316, but being only seventeen and still underage, the patrimony was actually transferred from his guardian to his uncle. *CLBE*, 18. William Sunnynge rendered account for Alice Le Leche in 1360 following her death. *CLBG*, 118. The guardian of Johanna Welford similarly rendered account for the property of the girl following her death in 1368. *CLBG*, 230

⁶² *CLBE*, 28, 217

⁶³ *CLBA*, 122; *CLBD*, 215; *CLBF*, 190; *CLBG*, 8. See also Carlton, 43; *Chamber Accounts*, ed. Masters, xxxi–xxxii

⁶⁴ *CLBC*, 92

to be in arrears for the sum of £35 16s. 3d. and committed to prison until he found the money.⁶⁵ In 1359, the guardians of Mathilda Ashwood rendered account before putting her to apprenticeship.⁶⁶ None of these interim recordings were followed up in the Letter Books when the child in question came of age.

By comparison, in Strode's twenty-eight cases, almost all accounts were presented at the end of a wardship when common law stated that the guardian would be answerable for the management of the child's maintenance and inherited portion and legacy.⁶⁷ Those accounts that are rendered thereafter are recorded at the same point in the process: at its end. Strode, it would seem, was turning policy into an actual procedure and establishing written precedent.⁶⁸

On the third point, before 1374, all the accounts rendered were at the behest of, and heard before, the mayor and aldermen. The first two accounts recorded during Strode's tenure were heard in the presence of city aldermen, but on 13 July 1374 when Robert de Brinkleye rendered his account for the guardianship of Thomas atte Bourne, it was recorded that this was done 'before Bartholomew Frestlynge, alderman and John Bernes and John Hadle, commoners, acting as auditors'.⁶⁹ This mention of commoners as well as aldermen is

⁶⁵ *CLBD*, 187

⁶⁶ *CLBG*, 105

⁶⁷ There were only two exceptions: William Stodeye rendered an account, with no explanation recorded, in January 1375 for the guardianship of Richard Briklesworth that had been granted to him in 1371. Richard was seventeen at the time and not quite of age. As a postscript to the case, William Stodeye died in August of 1375 and may have been conscious that he could not see out the full term of guardianship. *CLBH*, 5; *CWCH* ii. 185. In 1377, Juliana Louthe rendered an account for the guardianship of her son when he was passed into the care of his grandmother, following Juliana's remarriage. *CLBH*, 82

⁶⁸ It is however, surprising to find that none of Strode's cases were chosen to be written up as precedent cases by John Carpenter in *Liber Albus*, ed. Riley. See Chapter 7.

⁶⁹ *CLBG*, 323

casually recorded as a mere transaction, but actually reveals a major shift in orphan management. Not only did it provide the transparency that the commonalty was seeking in this period of constitutional change, but it marked the start of a permanent shift of wardship out of the hands of just the mayor and aldermen and into a more broadly accountable procedure. Seven of the accounts rendered in Strode's time specifically use the term 'commoners' in reference to those who audited accounts alongside nominated aldermen.⁷⁰ Where the term is not used, Strode himself or the chamberlain was present as the representatives of the commoners.⁷¹ For the forty-five accounts that are recorded after Strode's tenure, seven explicitly mention commoners and the remainder are heard before the common sergeant and/or chamberlain.⁷² In fact, from this time onwards, the chamberlain is recorded as almost always present alongside the mayor in recorded wardship transactions.

Finally, there is the way these accounts were recorded; written up with diligent consistency and detail, in the Letter Books. Wardships already underway when he took office but closed out under Strode were retrospectively recorded in tiny script in the manuscript of Letter Book G, squashed into the spaces intended for further detail by the original recording clerk. By contrast, contemporary recorded accounts are lengthy, diligently scripted and set out in great detail.⁷³ Correctly documenting wardship details clearly mattered to Strode. This was not purely good administrative practice but had legal connotations. Common Law was

⁷⁰ *CLBG*, 323; *CLBH*, 5, 14, 17, 33

⁷¹ The offices of city chamberlain and common sergeant were both elected by the commonalty. *CLBG*, 200, 248, 285, 316, 317, 320; *CLBH*, 52, 71, 141, 169, 170

⁷² *CLBH*, 305, 380, 405, 425, 446; *CLBI*, 20, 183

⁷³ See, for example, the account of John Costantyn in Letter Book H, compared with that of Isabella de Mymmes in Letter Book G. COL/AD/01/008 (Letter Book H), f. 119v -121r; COL/AD/01/007 (Letter Book G), f. 6v

undergoing a change in the late fourteenth century with the rise of *assumpsit*, a legal practice that, for the city, came to fruition in the 1440s.⁷⁴ Nonetheless, Ralph Strode, clearly possessing a keen legal mind, seems to have been ahead of the corporation as a whole by some decades. By recording such detail of cases at the time they occurred, Strode knew that he was creating a binding contract and his early use of the bond system to underwrite recorded promises illustrates this legal awareness. More to the point, for posterity, fully recorded cases provided clear, detailed, written precedents; a mechanism that would be employed by John Carpenter when he came to write his custumal of civic practice some thirty years later.

DEFENCE OF ORPHAN RIGHTS.

As his recording practice might suggest, it was not just *what* Strode did that was notable, but *how* he did it.

His diligence was consistent to the point of inclusiveness. Burgage law gave any citizen testator the right to devise his or her property to whomever he or she wished: son, daughter, or illegitimate child. Because of this, city policy granted the right of protection to *all* the fatherless children of its citizens, regardless of sex, sequence of birth, legitimacy, disability or even parental absence.⁷⁵

The considerable diversity of testamentary heirs in the cases Strode handled suggests that he did much to encourage a comprehensive application of this policy. In July 1375, the will of John Reyner was written up into the Letter Book H in order to give assurance for the

⁷⁴ See Chapter 7.

⁷⁵ Medieval Canon Law also promoted a moral obligation for a father to take care of all his children, legitimate or not. R. Helmholz, 'Support Orders, Church Courts, and the Rule of Filius Nullius: A Reassessment of the Common Law,' *Virginia Law Review*, 63 (1977), 435–6

inheritance not just of John's daughter, Alice, but Margaret his 'servant' who appears to have been Alice's mother.⁷⁶ When Roger Longe, vintner, died in September 1375, he bequeathed £20 to a Maud Becote for her marriage and "if she be enceinte in the opinion of his executors, then 20 marks to be left for the uterine child."⁷⁷ In August 1376, it is recorded that guardianship of Isabelle Becote, daughter of Matilda, aged half a year, and the sum of 20 marks bequeathed to her by Roger Longe, vintner was given to Adam Meryfield, goldsmith. Similarly, in 1377, when the complex case of the children, legitimate and illegitimate, of Henry de Padyngtone was brought to court for resolution, an inquisition into the messuage and shops left to Katherine, Henry's illegitimate daughter, was undertaken by twelve men in order to ensure that the girl received her dues.⁷⁸

Such rights were defended time after time. Strode ensured that children received the portions of their deceased siblings and that marriages were granted when correctly requested.⁷⁹ Untrustworthy guardians were held to account where necessary: when Peter Whapplelode was given into the guardianship of his mother and new stepfather, three independent men came into court and entered into a bond for the payment of £10 of Peter's inheritance 'in the event of John and Juliana failing to instruct and maintain the said orphan for a period of seven years or put him out to apprenticeship.'⁸⁰ Strode even, in one instance, ensured that a mother gained rightful and recorded guardianship of her eight-year-old son

⁷⁶ *CLBH*, 3, 10 C.M. Barron, 'The Child in Medieval London' in *Essays on Medieval Childhood* ed. J.T. Rosenthal (Donington, 2007), 40–53

⁷⁷ *CWCH* ii. 186

⁷⁸ *CWCH* ii. 181; *CLBH*, 82, 308

⁷⁹ *CLBG*, 164, 317, 320; *CLBH*, 5, 10, 66, 103, 127, 185

⁸⁰ *CLBH*, 126

and his inheritance after it was determined that his father had been 'absent abroad a long season.'⁸¹

The progressive management of cases was important too. Spaces in the manuscripts of the Letter Books, left for the writing up of further details of a case, frequently remain blank in the period up to the 1370s. However, actively following up a guardianship and ensuring the continued recording of its progress seems to have been important for Strode and foreshadowed an end-to-end management of orphan cases that would not become standard practice until the sixteenth century. A clear example is provided by the case of the orphan John Glastone. In 1377, it was recorded that the guardianship of John had been granted to Katherine Nortone. In 1380 when she pleaded lack of funds to maintain John and asked to give up the wardship, Strode had her render an account. It was found, and recorded, that she was in arrears to the sum of £64 which she was made to pay to the chamberlain to be safeguarded for John. In 1382, John came of age but when he came to court to claim his money, he asked that the sum be delivered to his uncle, to whom he claimed his father had originally entrusted him and who presumably had in fact been caring for him. The account recorded that this was done.⁸²

SHIFT OF CIVIC ACCOUNTABILITES

These examples illustrate the diligence of one man who seemed determined to right the wrongs that had befallen the city's many orphaned children in the wake of the numerous fourteenth-century plagues. Ralph Strode's administration was, however, more far-reaching. During his tenure, a number of fundamental changes were put in place that would mark the starting point of the real transition from the pre-plague policy of common law rights and

⁸¹ John Staunford, *CLBH*, 138

⁸² *CLBH*, 71. See also the case of Katherine and Alice Crepelgate, *CLBG*, 56; *CLBH*, 52

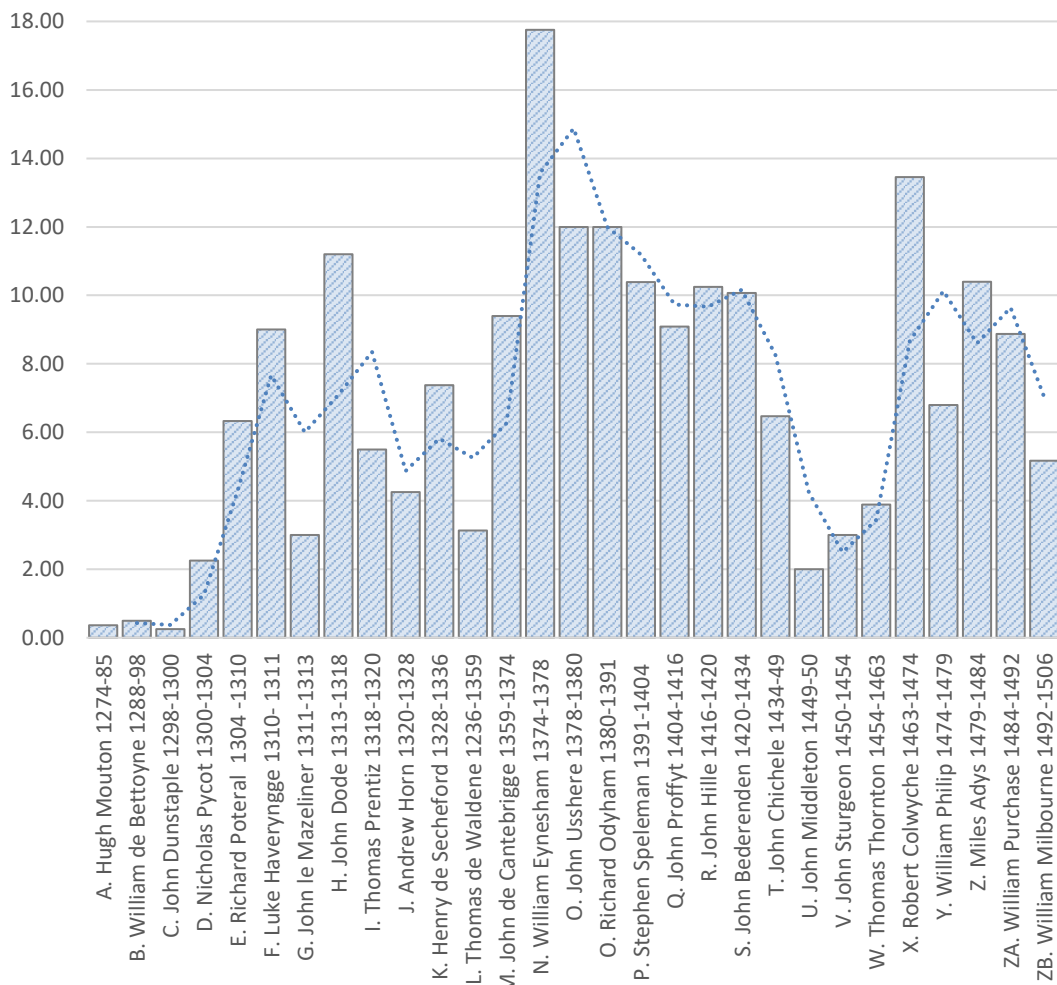
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customary traditions into the responsible, procedural, and democratic, operating mechanism that would enable the eventual establishment of a court of orphans.

INVOLVEMENT OF THE CHAMBERLAIN IN WARDSHIP

By the late fifteenth century, the more formulaic management of day-to-day orphan matters was accomplished principally through the chamberlain and the financial administrations were almost certainly overseen by his office. But that shift from the aldermen to the chamberlain began in the last quarter of the fourteenth century and Strode may have been the catalyst.

FIGURE 6-4: CHAMBERLAINS: ORPHAN CASES PER YEAR IN OFFICE WITH MOVING AVERAGE:



Sources: *CLBE-L*; *CPMR* i-vi; *Jor.*, i-iv

This case study shows that, as with the role of common sergeant, the manner in which the chamberlain became active in orphan matters during Strode's tenure assisted in a marked increase in terms of volume, activity and engagement. Presenting the numbers of orphan transactions recorded over time in the context of the tenure of city chamberlains shows a sharp increase during the term of William Eynesham, who took office in 1374, just months after Strode, and recorded the highest average of cases per month of office of any chamberlain during the period of this study.

Such numbers may of course reflect Strode's industry in bringing orphan matters to the court but, more likely, illustrate a combination of both offices working together. What is more important, however, is that this was the time at which orphan matters cease to be recorded as being heard in the presence of the mayor and a number of aldermen and, instead, were heard before the mayor and the city chamberlain. Figure 4.2 in Chapter 4 illustrates this clearly. From 1376 onwards, although orphan hearings remained the responsibility of the court of aldermen, it is clearly noted that the cases recorded in the Letter Books were brought before the mayor and the chamberlain. While this might have seemed a moot point at the time, it holds real significance for the shift towards greater transparency in civic government. The chamberlain, like the common sergeant, was elected by the commonalty and he answered directly to them. It is noted specifically by Bohun in the eighteenth century that in his administration of orphan finances, the chamberlain acted not as an individual, but as a "corporation", to ensure the protection and continuity of accounting.⁸³ So, what on the surface appears to be a minor change in recording practice, was in fact a marked shift in civic responsibility. The chamberlain now acted as an overseer

⁸³ Bohun, 289. This implies that, unlike other civic offices, the chamberlain's liability was *ex officio*, not personal.

of the actions of the elected mayor and aldermen in their management of wardship. It was a fundamental change in the administration of orphan affairs and one that would form the foundation for the early modern court of orphans.

MANAGING THE WHOLE INHERITANCE.

The case study shows that the chamberlain's involvement in wardship was not the only important shift in policy and procedure to be initiated at this time. Another lay in the dovetailing of the two parts of any orphan's inheritance: the portion of moveable goods, to which any citizen's child was entitled through London's customary practice of *Legitim* and any property devised to the child under a citizen's will.

The first specific evidence for the city's control of an orphan's portion of moveable goods appears in the last quarter of the fourteenth century. Prior to 1373, there were increasing instances of monies being passed by executors to the chamberlain who might then hand them over to an appointed or approved guardian, but it is during Strode's tenure that this tightened into standard, recorded, practice. The cases written up into the Letter Books were no longer simply recording property transfers at the behest of either citizens or the city. Rather they dealt with, and accounted for, the transfer of orphans' portions between executors and guardians through the medium of the chamberlain.

This again indicates a number of significant shifts in policy and practice. As a point of policy, this change marks the first time that the city pulled together the two strands of law and custom that formed the origins of London's rights over its orphaned children. Until this point, the mayor and aldermen appear to have been content to let canon law manage the formal recognition of testamentary guardianship for goods and chattels through the church courts. But the civil law-influenced right of *legitim* was a secular custom for which the mayor also had an accountability. The decades following the Black Death had shown that

allowing wardship to be managed through testamentary guardianship and the proving and enrolling of wills alone was no longer expedient; for the mayor and aldermen to be concerned primarily with property transfers and the common law side of their accountability was not enough. Fortunes were being made in this time of opportunity. Citizens who did well were growing richer and, at a time still of high mortality, this was reflected significantly in orphan's portions. The fair distribution and protection of these capital sums to prevent too much falling into too few hands, especially by nefarious means, was needed.

While monies being passed into or through the hands of the chamberlain had started to appear in the recorded transactions before 1373, there is a notable shift in focus and a more evident procedural structure to this accounting process during Strode's tenure.⁸⁴ Of the 181 transactions which crossed his desk, 114 mention the presence or inclusion of the chamberlain. Fifty-seven of them specifically record the transfer of money, goods or chattels through the chamberlain's hands (and by inference, his accounting system) or directly into the chamberlain's possession in trust for the child. This continued beyond 1382 to become standard practice, but it is notable that it is from this time that the whole management of orphans' patrimonies (capital sums and the portion of moveable goods to which children were entitled under the custom of *legitim*, rather than just the transfer of properties) begins routinely to enter the records.

⁸⁴ In 1366, for example, when John Payn, a surety, offered up the sum of 20 marks on behalf of the bankrupt guardian John Lubeck, 40s was paid out to the orphan, John Blythe and the rest retained by the chamberlain. In this instance, however, the patrimony was passed on to a new guardian within six weeks. *CLBG*, 168

This change to policy resulted in a key change in practice, with the establishment of what later came to be known as the orphans' chest or the orphans' fund.⁸⁵ Possibly in reaction to the abuses and malpractices of the preceding decades, rather than guardians retaining full control of portions as well as the property rights and incomes inherent in legacies, the establishment of a corporation-controlled repository split the control of inheritances between the guardian and the chamberlain's office. Legacy inheritances certainly continued to be actively managed by guardians, but Strode's insistent inclusion of the chamberlain in the 1370s suggests that it was from this time that a good part, or all, of any orphan's portion (cash or jewelry and plate) was instead placed in the secure chests of the chamberlain's office to be held in trust (a term increasingly used in relation to the chamberlain from this time) and handed back to the orphan upon marriage or coming of age.⁸⁶

Another resultant shift, in terms of practice, was in the liability of the chamberlain for the transfer of accounts. For the first time, in 1378, at the changeover of chamberlain from William Eynesham to John Ussher, there is documented evidence of a handover of sums of money held in city hands on behalf of orphans.⁸⁷ This record suggests the development of the ex-officio liability of the office of chamberlain and it is likely that checks and balances of this kind were afterwards managed through the ledgers of the chamberlains' accounts.⁸⁸

It may also be indicative of tighter financial control over guardians that the first instance of a bond being used as a means of guardianship indemnity was recorded at this time, in 1373.⁸⁹ Ralph Strode was not the first to use a financial bond as a means of securing the

⁸⁵ The orphans' chest is mentioned just a decade or so later in February 1391 when the mayor borrowed money from the orphans' chest to buy corn for the poor. *CLBH*, 362. See Chapter 7.

⁸⁶ *CLBG*, 307, 320; *CLBH*, 3, 8, 16, 18, 23, 26, 33, 103, 315

⁸⁷ *CLBH*, 103

⁸⁸ Bohun, 289; *Chamber Accounts*, ed. Masters, 9–10, 62

⁸⁹ *CLBH*, 51

performance of a task or obligation: there are three early examples of executors entering into bonds to provide a transfer of inheritances from testators' estates.⁹⁰ Strode, however, was the first to make use of bonds for the protection of minors: to guarantee that suspect or miscreant parties in orphan cases completed tasks they had agreed on in court. The use of a financial bond was employed to ensure the guardian of the children of Richard Scut brought sureties into court in 1373, to indemnify the behaviour of the guardians of Peter Whappelhode, and to protect monies due to John Costantyn's wife in the event of a divorce in 1379, and, in 1380, to protect the payment, in three instalments, of a sum of money to the orphan Elias Frauncys.⁹¹ All of this financial development marked the beginnings of the recognition of the importance of wealth in inheritances in the city, rather than just property. London was beginning to wake up to the economic opportunity inherent in its wardship rights and customs and was casting off the shroud of an early feudal, purely common law, practice.

There remains one final legacy for Strode in this evidence for reform. In October 1377, King Richard II ratified the city's rights to wardship in an act of parliament. The question put to the king for ratification includes terminology which might suggest the influence of Strode:

Also, whereas in accordance with the most ancient free custom of the said city, the wardship of Orphans of the same city within the aforesaid city, and also of their lands, tenements, and chattels being within the franchise of the same city, ought, by right to pertain to the mayor and chamberlain for the time being in the said city, and to no one else: rendering to the said orphans when they come of age reasonable account of the profits and issues of the same land and tenements and from their chattels, in accordance with the ancient custom of the said city; nevertheless the said citizens ask, to settle and lay aside controversy henceforth, that it be set out for them by charter of

⁹⁰ *CLBD*, 189; *CLBE*, 69, 185

⁹¹ *CLBH*, 51, 126, 141, 148

our lord the king, notwithstanding any statutes or judgements rendered to the contrary, or process recently commenced.⁹²

Of note is the inclusion of chattels as well as lands and tenements and the fact that the rights 'pertain to the mayor and chamberlain', a distinct shift from previous declarations of the rights belonging to the mayor and aldermen as laid down in Darcy's Custumal. The tone of the request to 'settle and lay aside controversy' might suggest recent crown interference but may also be a reference back to the uncovering of the abuses of power in the 1376 Good Parliament. Regardless of the motive, the crown's response, a ratification of the request from the city, constitutes the only specific reference to the city's rights to orphan management in any charter to that point, and it was done during Ralph Strode's term as common sergeant.

All of this activity constituted a restructuring of financial control and responsibilities over orphan inheritances that removed direct control from the hands of the mayor and aldermen into a more transparent and accountable civic office, the chamberlain. From here on, although custom and policy still placed the right to wardship with the mayor and his aldermen, and accountability still rested on their shoulders, the evidence shows that they never again had such direct control. It is hard to view this as anything other than a consequence of the post-plague rise in instances of malpractice and the aldermanic abuses of power that had no doubt contributed to the clamour for transparency from the commonalty that had resulted in its meeting of 1 August 1376.

⁹² 'Item 130, Richard II: October 1377', in *Parliament Rolls of Medieval England*, ed. C. Given-Wilson, P. Brand, S. Phillips, M. Ormrod, G. Martin, A. Curry and R. Horrox (Woodbridge, 2005), [British History Online](#). At the behest of the city's MPs, this request was incorporated as an additional clause in an act of parliament in which Richard II confirmed Edward III's charter of 1341. *Historical Charters*, ed. De Gray Birch, xxviii

6.3 CONCLUSION:

Ralph Strode was a catalyst for change in the long evolution of the London court of orphans. In the dark days of the aftermath of catastrophic plagues, he understood that what was needed to bring about a constructive change in London's execution of its wardship privileges, was the exercise of authority. More pertinently, he understood what that meant: that true authority in governance stems from knowledge, experience and objectivity. His industry in his first four years meant that he gained the first two very quickly; the third he brought with him in his intellectual capacity. That last was perhaps his most notable attribute. It enabled him to remain relatively unpartisan in a very difficult time of polarized city politics and yet to use the clamour for change to the city's lasting advantage, at least where orphan matters were concerned.⁹³

Ralph Strode's career and his approach to civic wardship lends some credence to the possibility that he was the compiler of the Jubilee Book or, if he did not actually write it himself, that he had a hand in it. It would certainly explain the sudden reduction in the number of his appearances in city court cases between 1376 and 1378 and there is much in his work with orphan matters that suggests an affinity with a book of ordinances that sought to introduce checks and balances and to make the government of the city much more open and accountable than it had been before.⁹⁴ His involvement in its creation would also lend fitting authority to his pivotal role in what amounts to the overhaul and effective establishment of wardship practice in the late fourteenth century.

⁹³ Strode was caught up to some extent in the Brembre/Northampton controversies, but it is difficult to place him firmly in one camp or the other. *CLBH*, 83, 245

⁹⁴ *Jubilee Book*, ed. Barron and Wright, Introduction

6: Consolidation and Change

Strode's changes were far-reaching. This was the point at which civic wardship began to separate from its feudal and manorial counterparts, where the protection of inherited wealth began to take over from the management of common law-derived property patrimonies. Strode embraced the city's civil law influenced custom of *legitim* and, for the first time, ensured that orphan cases, under the office of the common sergeant, addressed the transfer and protection of the *legitim* portion as well as any devised legacy. He separated the financial from the legal and devolved control of inheritances from the hands of the guardian and the mayor and aldermen into civic administration that answered to the commonalty. He was the first to use the bond to underwrite a recognizance; he incorporated the office of the chamberlain into wardship procedure, possibly starting the ex-officio liability that Bohun points out several centuries later, to allow continuity of accounting. It was during his tenure in office that the mayor and aldermen's rights to the wardship and guardianship of citizen's underage children, along with their inheritances of devised legacy and movable portions, was specifically ratified for the first time by the king in an act of parliament. Strode was in many ways, ahead of his time: in his practice it is possible to see the foundation stones of the core procedures outlined in Chapter 1 of this study.

However, Strode's time in office coincided with a period of great change in London. Although the Jubilee Book was burned in 1387 and almost all its civic reforms overturned, Londoners did not quickly forget the attempt to bring greater accountability and transparency to city government. Within the guild petitions to the Merciless Parliament of 1388 are found remonstrations against Nicholas Brembre and his allies for the corruption of civic governance and several of these guilds' petitions openly declare that the destruction of the Jubilee Book had been to the detriment of the good governance and the common profit

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of the city.⁹⁵ While London appeared to realise, over time, that greater transparency resulted in decisions made by outcry rather than reason, there emerged from the attempts at reform an acknowledgement that greater accountability needed to be brought to bear on those in civic office. The reforms to wardship management at this time marked a period of consolidation and change but, as the fifteenth century dawned, the city government would need to take this work further still.

⁹⁵ See in particular the petitions of the Mercers and the Goldsmiths; TNA 8/20/997; TNA SC 8/198/9882. I am indebted to Dr Daniella Gonzalez for discussions on these points following her paper 'Political Memory in Richard II's London: The 1388 Guild Petitions, Civic Governance and the Burning of the Jubilee Book' given at the London Medieval Society Colloquium on 20 February 2021.

7. THE RISE OF CIVIC BUREAUCRACY 1387-1550

Recent studies have done much to explore the concept of the ‘common profit’ in London’s development.¹ A political theory with strong moral undertones, the concept of individuals and collectives in government acting for the common profit was a consequence of the troubled post-plague decades in London and remained a strong theme in the development of civic government in the fifteenth century. Effective accountability for, and the management of, both the city’s wardship rights *and* the children in orphanage provided the city with a significantly increasing source of credit and opportunity. As the fifteenth century turned, the aldermen continued to use the Letter Books to record a good percentage of non-procedural interventionist transactions alongside those captured in the Journals. However, by the early decades of the sixteenth century, the way the city managed its ancient custom had had been substantially transformed.

7.1 1387–1419: THE JUBILEE BOOK TO *LIBER ALBUS*

The volumes of guardianship cases being generated (and recorded in civic records) show a period of sustained wardship activity in the years following the end of Ralph Strode’s tenure as common sergeant.

¹ See in particular David Harry’s 2019 study: Harry, *Constructing a Civic Community*. I am also indebted to Daniella Gonzalez for access to her thesis. D. Gonzalez, ‘Common Profit and Civic Governance in Ricardian London, c. 1376–c. 1391’ (PhD thesis, University of Kent, 2019). For a discussion of London and civic idealism, see S. Rees Jones, ‘Thomas More’s ‘Utopia’ and Medieval London’, in *Pragmatic Utopias: Ideals and Communities, 1200–1630* ed. R. Horrox and S. Rees Jones (Cambridge, 2001), 117–35; Barron, *LLMA*, 307

STRODE'S LEGACY

Figure 4.2 in Chapter 4 illustrates the continued involvement of the chamberlain in orphan matters beyond Strode's tenure. The use of the city chamber as a repository for orphans' portions had also become commonplace, strengthening the chamberlain's position as the controller of wardship finances. While the management of property, and presumably, the resultant income, remained the responsibility of the guardian, it had become usual for the cash part of a legacy to be paid into the city chamber. This was especially so if the testamentary guardian, often the mother, had died.² In his will enrolled in July 1390, William Tonge, while devising his property into the care of his wife, bequeathed 100 marks to each of his four children and instructed that the sums be paid into the city chamber. His widow, Avice, followed his wishes in December of that year, paying 400 marks to Richard Odiham, the chamberlain.³ Such sums added up to a useful, readily available source of capital for the city in the orphan's chest. Two months later in February 1391, Adam Bamme, the mayor and a goldsmith, entered into a bond with the chamberlain for £400 undertaking to pay back the same by Michaelmas of that year, the said money "being the property of [the] orphans [of certain citizens], viz., John Ratford, glover, John Devenyshe, John Biernes, skinner, William Wircestre, Nicholas atte Walle, "taillour," Peter Whaplode, and William Tonge."⁴

² *CWCH* i. 563, *CWCH* ii. 80

³ The daughters' shares were to be reduced to 100 shillings if they married without consent or lived immodestly and the boys were to have an extra 5 marks over 7 years if the elder should study and practice common law and the younger should go to Oxford or pursue commercial ventures. *CWCH* ii. 278–9, *CLBH*, 357

⁴ The money was used by the city to buy corn for poor relief. The chronicler, John Knighton, noted that the mayor and aldermen actually borrowed upwards of 2000 marks. *Knighton's Chronicle 1337–1396* ed. G. Martin (Oxford, 1995), 538. The Orphans' Fund or Orphans' Chest is a term routinely used in the sixteenth and seventeenth centuries for money held in trust by the city for orphans which was [cont.]

Figures 7.1 and 7.2 demonstrate that common sergeants in the fifty years following Ralph Strode's tenure sustained a comparatively (against the pre-Strode era) steady trend in terms of numbers of cases [per month in office], visibility of that office and recorded instances of rendered accounts. Thirty-one accounts were returned and recorded during the years 1382–1416, constituting 39.2% of the seventy-nine which appear in the civic records over the course of the period of this study. Of those, twenty record that the account was rendered in the presence of aldermen with a combination of commoners and/or the chamberlain and common sergeant: officers elected by the commonalty.⁵

The application of all of these reforms was encapsulated in the 1411-14 case of Elena Dyster. Thomas Dyster, a mercer, had died before 1403, leaving three young children in the custody of their mother.⁶ By 1411, all but one, Elena, who appears to have been born around the time of her father's death, had died. John Hertwelle, a fellow mercer, had been appointed the children's guardian, but had married Elena when she was just ten years old and then embarked on a crusade to recover her full inheritance of capital and property from her

often loaned out to citizens. For a discussion on the value of orphan inheritances to the city, see also Chapter 9. *CLBH*, 362. Orphan cases: *CLBH*, 103, 126–7, 135, 187–9, 233, 267, 340–1, 357

⁵ *CLBG*, 234; *CLBH*, 30, 31, 52, 91, 180, 206, 212, 233, 234, 253, 305, 345, 380, 405, 425, 446; *CLBI*, 20, 139, 155

⁶ His will was enrolled in the consistory court in 1403. *Testamentary Records* ed. Fitch, 64. The children's money would have come from their mother who was Joan Briklesworth, a former orphan herself and a wealthy heiress. She married Dyster's business partner, the mercer, Robert Domenyk in 1404. Hertwelle was Domenyk's apprentice. Sutton, *Wives and Widows*, 139. This is good example of a difference from feudal wardship whereby children inheriting a mother's legacy were automatically made wards of the crown. S. Sheridan Walker, 'Free Consent', 124

7: Rise of Bureaucracy

FIGURE 7-1: RECORDED CASES [BY FAMILY] PER MONTH IN OFFICE: COMMON SERGEANT

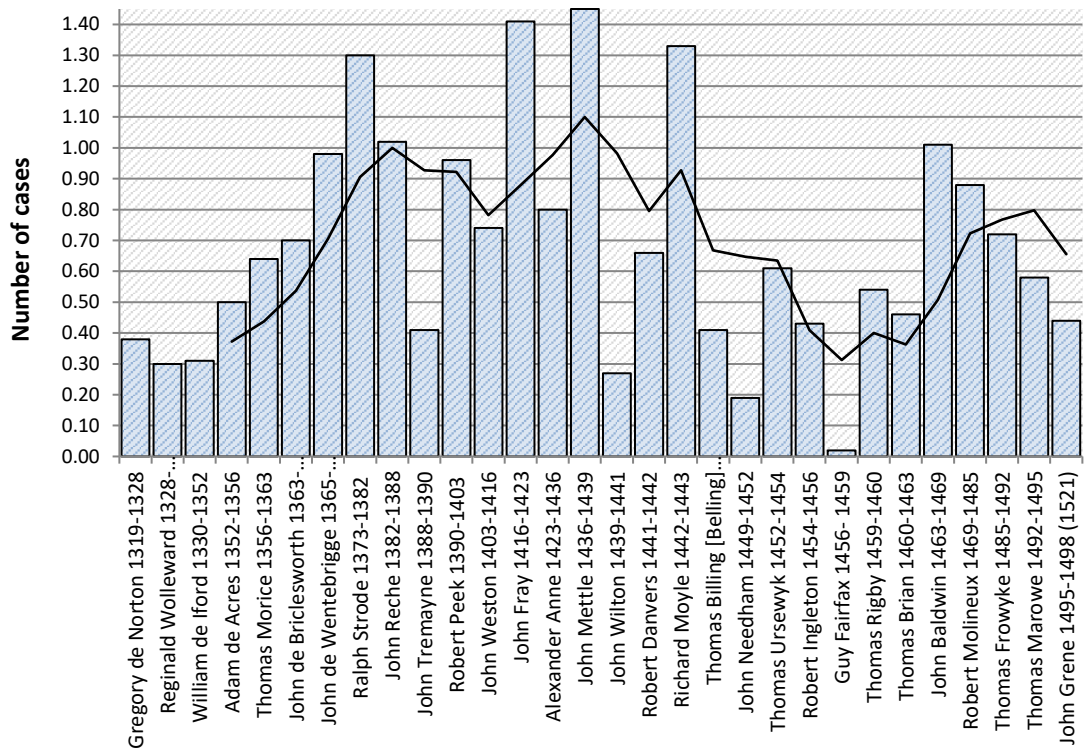
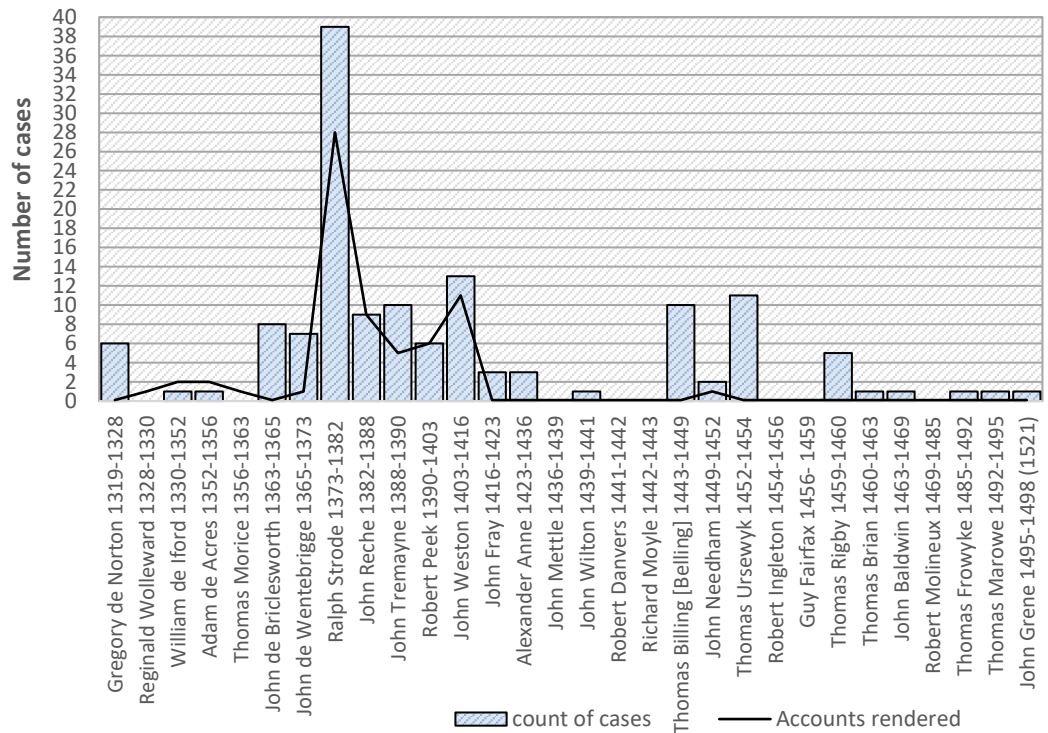


FIGURE 7-2: RECORDED CASES [BY FAMILY] WHERE COMMON SERGEANT IS NAMED & ACCOUNTS RENDERED



Sources for both figures: *CLBE-L*; *CPMR* i-vi; *Jor.*, i-iv

father's executors, including what he perceived was due to her after the deaths of her brothers.⁷ The case, heard and recorded, for the most part, in the mayor's court rather than the court of aldermen, goes into great detail and presents evidence that all aspects of the administrative changes of the 1370s were being actively pursued. The action was first brought before the mayor and aldermen in 1411, by the common sergeant, John Weston. When Weston raised the case again in 1414, it is recorded that he did so "as common sergeant-in-law of the city and in pursuance of his duty to protect the interests of orphans".⁸ This is an almost word-for-word reiteration of terminology used by Ralph Strode during his time in that office, and mirrored in the oath of the common sergeant that had been written up for the first time in the destroyed Jubilee Book. As this case was brought five years before the same oath was recorded in *Liber Albus*, it might be suggested that the recognition of this civic accountability, at least, had survived the burning of the Jubilee Book.

Other orphan procedural changes brought in during Strode's tenure are also reflected in this case. When John Abbott, one of Thomas Dyster's executors, was called into court to answer the charge of withholding the orphans' inheritance, he agreed to render an account before two aldermen and two commoners and then entered into a bond with the chamberlain for the sum of £400: the value of the Dyster legacy. The account was enrolled, in full, in the mayor's Plea and Memoranda rolls, on 18 November 1411 and reflects the thoroughness in following up wardship abuses that had taken hold in the aftermath of the Good Parliament. Abbott's account shows, in detail drilled down to each individual debtor, a total of £638 16s. 4d. still to be collected before the devised sum of £400 could be paid out for use of the children.⁹ By 13 February 1412, Hertwelel had married Elena and had come into court to

⁷ *CLBI*, 111, *CPMR 1413-37*, 15, 18-24

⁸ *CPMR 1413-37*, 18

⁹ The account is laid out and every debtor, and the sum owed, listed in full detail in the mayor's court records for 1411. *CPMR 1413-37*, 22-4

claim her inheritance of 100 marks, owed to her following the sale of lands and tenements disposed of for the purposes of the will. But in January 1413, he was arrested and imprisoned in the sheriff's compters, accused of having "removed Elena ... under ten years of age, and entitled to property, from the liberty of the city, contrary to the will of the mayor and aldermen."¹⁰ By November 1413, Elena's brother, John Dyster, had died and Hertwelle was in court again, contesting the bequest of a property Thomas had devised, after John's death, to his nephew, Thomas Gylle.¹¹ Finally, in 1414, when the case was brought again by John Weston, Hertwelle was revealed to have received £400 from another executor, John Bally, in a private agreement between the two men, and to have acknowledged this as Elena's inheritance.¹² After a thorough investigation of the evidence by the court, Hertwelle was instructed by the mayor to cease troubling Dyster's executors for money.¹³

So, the strengthened elements of wardship responsibility and management brought in during the late 1370s seemed to have held into the fifteenth century. Increased accountability brought increased awareness, which propagated increased business, but it

¹⁰ In other words, he had married her while she was underage, without permission. This is recorded in a writ from the king to the mayor to produce the prisoner and explain the changes against him. The mayor defended his position and agreed to present Hertwelle, but it would seem that Hertwelle had been erroneously released from prison. Two days later, "William Bartone, Keeper of the Compters of William Sevenok, one of the Sheriffs, [was] removed from office for letting John Hertwelle, a prisoner, go at large without orders." *CLBI*, 111

¹¹ *CPMR 1413-37*, 21

¹² Hertwelle had sworn Bally to secrecy, asking him not to reveal to the other executors that a payment had been agreed. In his will, Thomas Dyster had bound his debtors to John Bally and named him as an executor. Bally had refused the administration but appeared to have taken it upon himself to collect the debts anyway to do right by the children. His payment to Hertwelle would consequently not have been official, a fact on which Hertwelle had clearly hoped to capitalise. *CPMR 1413-37*, 18-20

¹³ *CPMR 1413-37*, 4, 20

would seem that, despite Strode's strengthening of their authority, the city officers were still struggling with the problems posed by extra-ordinary orphan cases.

The scope and value of orphan inheritances were, critically, still not officially assessed at the death of the father, especially where wills were nuncupative or had been lost. Inquisitions were still required to ascertain details of orphan cases brought before the court and full inquiries into the value of the estates of several prominent citizens, and their rightful heirs, were needed on several occasions.¹⁴ Abuse of wardship responsibilities was still an issue. In 1387, the city stepped in to force the mercer, Walter Blackeneye, to render an account for the guardianship of Thomas and Isabella Stable, throwing him into prison when he was found to be in arrears.¹⁵ In addition to Elena Dyster, three other cases of the marriage of minors were discovered, all with differing outcomes: Idonia Camber was fined £4 in 1393 for marrying the mercer John Hake while she was underage; in 1403, John Munstede was fined 100s. (reduced to 20s.) when it was revealed that he had allowed his stepdaughter, Elizabeth Forster, to marry a fellow draper, John Bramstone, while she was still in minority; the underage marriage of Johanna Aghton resulted in John Hurlebatte being thrown in prison and one of his co-conspirators losing his citizenship.¹⁶

The case which perhaps best illustrates the challenges London faced when taking on a testamentary guardianship with no clear procedures was that of the young John Coleman. Although his will was not enrolled until a year later, it is likely that Reginald Coleman died in November 1383, leaving his property and £200 to his wife Cristina. The money, he

¹⁴ See the cases of orphans Joanne Milton and of John and William Clerk in 1383, Alice Strawesburgh in 1388, John Wodehous in 1395, and John Frensshe in 1415. *CLBH*, 216, 217, 399; *CLBI*, 54, 146

¹⁵ *CLBH*, 305

¹⁶ The latter was recorded in detail and became an exemplary case for John Carpenter in the Book IV index of *Liber Albus*. *Liber Albus*, ed. Riley, 525. *CLBH*, 186, 210; *CLBI*, 141

specifically stated, was to be used to school their son, John, and, probably because the sum was not meant to be released to a guardian to use as capital, no account was to be rendered.¹⁷ On 24 June 1384, sixteen-year-old John was apprenticed to the vintner, Thomas Horsman, for a term of seven years.¹⁸ At much the same time, his mother had remarried.¹⁹ The new husband, Roger Wygemor, did not come into court and acknowledge receipt of John's inheritance until 20 January 1385, a matter of weeks after Reginald Coleman's will had been proved in the husting court, but it is possible that his appearance in John's life had triggered the apprenticeship.²⁰ Perhaps John was not happy with his new stepfather and new circumstances when he had clearly been intended for an education. Just five days after Wygemor appeared before the court of aldermen, John Coleman was brought before the mayor's court, accused of the theft of 205 marks belonging to his master, Horsman, and stolen while the boy was on a trading voyage to Bordeaux in the previous September with his fellow apprentice. Wygemor and John's mother did not step in to pay the money back from John's inheritance [contributing only the £20 already paid for his apprenticeship] and on 1 February 1385, the boy was committed to prison. Despite Coleman's crime, it was Thomas Horsman who would henceforth look out for John. In September of 1385, Horsman appeared before the court of aldermen to ask that his apprentice be released to him for five days as "he [John] was so sick that his life was despaired of." Again, in December of the same year, Horsman asked for John to be released, this time until 24 June 1386, for the same reason.²¹ In April 1387, Horsman and John appeared in court together after a 'controversy'

¹⁷ His will was enrolled in the husting court in November 1384. *CWCH* ii. 246

¹⁸ There is a possibility that, by June 1384, John's schooling was deemed sufficiently complete for him to be apprenticed. The ability to read and write was necessary for apprenticeship into a major company. Apprenticeship might also be included in the term 'education'.

¹⁹ *CPMR 1364–81*, 89

²⁰ *CLBH*, 256

²¹ *CPMR 1364–81*, 89

had arisen between them and John's stepfather and an executor of his father's will. John requested his £200, but when an inquisition from the parish of his birth found him to have only turned nineteen on 20 February 1387, he was unable to inherit. On 12 March 1389, just days after John would have turned twenty-one, it was recorded that Wygemor, his stepfather and guardian, had reported John Coleman's death in minority.²² The timing and wording of this entry suggests that the enquiry was instigated by the mayor and aldermen. Bound by the testamentary instruction that no account be rendered, the court appears not to have had much control over the course of John's fate. But that last entry suggests that the administrators had kept an eye on the case and undertaken to ensure that the boy received his patrimony when he came of full age.

So, while the accountability for orphan matters amongst city officers that had been so clearly put in place in the late fourteenth century resonated into the fifteenth, the city was still struggling with *how* exactly they ought to be dealing with the responsibilities placed on them. However, the compilation of a new book of city procedures in 1419 would mark a change in administrative efficiency in the management of wardship.

JOHN CARPENTER AND *LIBER ALBUS*

Forty-one years after the completion of the Jubilee Book, and thirty-two years after its burning, a new and comprehensive collection of the city's customs, ordinances, official oaths and civic precedents came into existence. This time, its author was known and the reasons for its compilation, documented.²³ John Carpenter was the city's common clerk and

²² *CLBH*, 257

²³ *Liber Albus* has, for many centuries, been regarded as the comprehensive source for London's laws and customs. A further copy was commissioned in the sixteenth century and a printed transcript published in 1859–62, edited by H.T. Riley. The translation commonly in use today followed, by the same editor, in 1861. See W. Kellaway, 'John Carpenter's *Liber Albus*', *Guildhall Studies in London History*, 3 (1978), 75–91

completed *Liber Albus* in November 1419, two and a half years after his appointment to that office. In his preface, he explained the motivation behind the work:

Since human memory is fallible...we are unable to learn everything worth remembering, even though it has been committed to writing. Furthermore, since the aged and most experienced rulers of the city have frequently perished by pestilence...their successors have been at a loss for written information and disputes have arisen as to what decisions should be taken.

For these reasons, Carpenter undertook a task deemed too laborious to have been attempted before and compiled his tome 'from noteworthy memoranda that lie scattered without order and classification throughout the books, rolls and charters of the city'. The result provided a definitive custumal of

those praiseworthy observances which, although not written, have been usually followed and approved in the city, but also the written memoranda...so that superior authorities and their inferiors may know...what should be done in rare and unusual circumstances.²⁴

Carpenter's own definition of the reasons, and the outlining of his solution, is of importance to the evolution of the city's management of orphan matters. Because of the impact of pestilence, the city had clearly lost its way in the effective governance of wardship by the second half of the fourteenth century. The fallibility of human memory and the loss of civic officers with experience and knowledge had had an impact. Intervening on behalf of wronged orphans had come to mean holding inquisitions or relying on witnesses to provide testament, under oath, to the facts of a wardship. A wardship which had, more often than not, originated in a will, was at the mercy of testamentary guardians, sureties provided on

²⁴ *Liber Albus, Munimenta Gildhallae*, 4; Kellaway, 'Liber Albus', 69

oath (and not always recorded), the business of executors and, as came to be clear for a period in the 1360s and 1370s, the abuses of those in civic power.

Ralph Strode's approach to the city's wardship rights and the effort to establish both authority and transparency in the Jubilee Book, had been an admirable first step in bringing order to that chaos, but *Liber Albus* went a step further. It was a product of its time, a homage to bureaucratic organisation and definition. It was succinct on accountability; *what* the mayor and aldermen were liable for, and thorough on responsibility; *how* city customs should be dealt with. It transformed vague custom into written policy using documented evidence and it delivered clear and authoritative precedents of what to do when faced with a myriad of civic issues. Moreover, in matters of wardship, it provided a clue as to the city's thinking on this ancient right by the second decade of the fifteenth century.

Liber Albus is divided into four books. Book I refers to the city officials and their duties (part I) and precedents set by visitations of justices in Eyre (part II). Book II contains the city's royal charters and Book III, a collection of London customs. Book IV, intended originally as a collection of precedents on civic matters, exists only as an index to those precedents scattered throughout the city's Letter Books and other memoranda.²⁵

Table 7.1 sets out the twenty-one references to orphan matters in *Liber Albus*. In examining what Carpenter chose to include on wardship, one theme becomes apparent: intervention.

²⁵ Kellaway, 'Liber Albus', 69–70

7: Rise of Bureaucracy

TABLE 7.1: ORPHAN REFERENCES IN *LIBER ALBUS*:

No	<i>Liber Albus</i> reference	<i>Liber Albus</i> title	City record reference	Date of original transaction	Summary of recorded precedent: "what the city might do when..."
Book 1 – The section on ‘How the city should be governed’					
1	Book I, Part II [p.95]	"Abduction of a minor in guardianship: on the guardianship of children"	London Eyre, 1244, 184	1244/1320	
Book III – the section which illustrates the City's customs					
2	Book III [p.267-9]	The oaths of the aldermen, recorder, chamberlain, and common sergeant			
3	Book III [p.419]	"Forfeiture of the value of a maritage"	Letter Book G, f. 119v <i>CLBG</i> , 163–4	1363-4	
Book IV – Carpenter's index to City records, pointing to precedents of how the city ought to deal with many civic matters					
4	Book IV [p. 525]	"Judgement upon Robert Hurlebat and others, for giving a female orphan in marriage, without leave of the mayor"	Letter Book I, f. 156r, <i>CLBI</i> , 141–2	1415guardian married a ward without the consent of the mayor and aldermen
5	Book IV [p. 526]	"Process for the payment of the goods of an orphan into the chamber"	Letter Book G, f. 43v, <i>CLBG</i> , 55	1356	...an executor absconds
6	Book IV [p. 526]	"Process of fieri facias for an orphan's goods"	Letter Book G, f. 205r <i>CLBG</i> , 224	1368	...one of the orphans dies
7	Book IV [p. 527]	"Precept and process as to an orphan given in marriage while a ward."	Letter Book F, f. 225r <i>CLBF</i> , 266	1328	...a guardian claims abduction and illegal marriage of an orphan
8	Book IV [p. 527]	"Process as to the goods of orphans"	Letter Book E, f. 250r <i>CLBE</i> , 301	1314	...an orphan claims patrimony after mother [testamentary guardian] dies during wardship
9	Book IV [p. 527]	"Process against mainpernors for an orphan's goods wasted"	Letter Book E, f. 244r <i>CLBE</i> , 293	1334	...stepfather absconds with orphans' inheritance
10	Book IV [p. 527]	"Memorandum as to a tenement taken into the hands of the city because it belonged to an orphan"	Letter Book G, f. 240r <i>CLBG</i> , 256–7	1369	...an orphan claims an entitlement to a property following the death of several heirs.
11	Book IV [p. 527]	"Memorandum as to the repairing of the tenements of an orphan"	Letter Book G, f. 253r <i>CLBG</i> , 265	1370	...an orphan's property starts to fall into disrepair

7: Rise of Bureaucracy

12	Book IV [p. 527]	"Process as to the tenements of orphans withheld by the executors of the parents of such orphans"	Letter Book G, f. 6r <i>CLBG</i> , 7	1353	...orphans' brother [and executor of both parents] withholds siblings' inheritance
13	Book IV [p. 527]	"The value of a maritage of an orphan forfeited, such marriage being without leave."	Letter Book G, f. 119r <i>CLBG</i> , 163	1363	...guardian married a ward without the consent of the mayor and aldermen
14	Book IV [p. 527]	"Inquest as to the tenements of a certain orphan"	Letter Book G, f. 222r <i>CLBG</i> , 229	1369	...an inquisition is requested into the inheritance [property] of an orphan
15	Book IV [p. 527]	"Commission for apprenticing a certain orphan"	Letter Book H, f. 282r <i>CLBH</i> , 398	1404	...an orphan is apprenticed
16	Book IV [p. 527]	"Concession that a certain female orphan shall be a nun in the priory of Kylburn"	Letter Book H f. 288r <i>CLBH</i> , 404	1393	...a female orphan becomes a nun
17	Book IV [p. 527]	"Grant of the maritage of Katherine Kelshulle"	Letter Book H, f. 281r <i>CLBH</i> , 394	1393	...permission needs to be granted for a marriage
18	Book IV [p. 534]	"Writ for having in wardship Simon de Burgh and his wife for their tenements as orphans, they being next heirs thereto; and return of same writ."	Letter Book E, f. 34r <i>CLBE</i> , 47–8	1315	...stepfather contrives to marry his ward to his son and the city's assertion of its right to intervention
19	Book IV [p. 541]	"Writ of enquiry whether the age of orphans, at the time of letting tenements of late years in wardship until they are of full age, is so recorded as of record, that a verification to the contrary of such alleged age, in an action of pleas touching the tenements so let within the same city, may afterwards be admitted or not: and return thereon, that it may not."	<i>CPMR</i> 1364–81, 81, 143	1372	The city might know that an orphan's age, recorded at the time of guardianship, does not preclude a subsequent verification of the age of an orphan
20	Book IV [p. 549]	Writ for delivery unto certain persons of the wardship of the tenements, goods and chattels of a certain orphan	Letter Book D, f. 108r <i>CLBD</i> , 234	1310	...a writ is delivered enjoining the mayor and aldermen to commit orphans and their property to designated persons and take security from the guardian
21	Book IV [p. 592]	Inquisition as to the tenements of a certain orphan	Letter Book G, f. 222r <i>CLBG</i> , 239	1369	...an inquisition is required to ascertain the location and value of an orphan's properties

Sources: *Liber Albus*, ed. Riley; London Eyre, 1244; *CLBD*; *CLBE*; *CLBG*; *CLBH*; *CLBI*; *CPMR* 1364–81, COL/AD/01/004, 005, 007, 008, 009 (Letter Books D, E, G, H, I)

Carpenter was less concerned with policy or the defending of custom or legal rights. This was a guide for civic officers on *how* to act when wardships went wrong.

In Book I, London's wardship policy is firmly and definitively stated. It is of note that Carpenter chose the 1244 case of the abduction of William FitzWilliam, or, more appositely, the recorded response to it, in which the city outlined its rights and policy on wardship in defence of them to the king.²⁶ Originating as an appeal in London Eyre of 1244, the case was re-transcribed into a quire which formed a part of either *Liber Horn* or *Liber Custumarum* in the 1320s, and was duly selected from those loose folios by Carpenter in 1419.²⁷ The wording in *Liber Albus* is copied directly from the appeal in the Eyre without any editorial commentary and reiterates a clear and powerful statement of London's rights and policy:

it is fully lawful for anyone of the city by testament to bequeath the guardianship of his son with the chattels and inheritance of such child to whomsoever he may think fit, such guardian being bound to apply the proceeds of such inheritance to the use and advantage of such child until he comes of age. But if that guardianship is not so bequeathed, and the inheritance comes to the child from the father's side, in such case the mother of the child, or his nearest kinsmen on the mother's side, shall have the guardianship of him...if the inheritances come from the mother's side, then the nearest kinsmen on the father's side shall have the guardianship...such guardians being bound to answer to such heir when he comes of age for all the issues of the guardianship aforesaid.²⁸

Carpenter chose well: such consistency across three centuries provided powerful authority. That this case is included in *Liber Albus* also serves to reinforce that, even with the

²⁶ This case is outlined in chapter one, 11–3, 19–20. Appeal nos. 184, and 188 (which in *Liber Albus* is placed immediately after appeal 184 and would seem to refer to it) in *London Eyre, 1244*, 72–80

²⁷ See Chapter 4 and Kellaway, 'Liber Albus', 75–76. *London Eyre, 1244*, xxii–xxvi

²⁸ *Liber Albus*, ed. Riley, 96. For a comparison, see the extract lifted from the records of the London Eyre, 1244 in Chapter 2.

acceptance of civic accountability for the ongoing management of wardships and the strengthening of process to support the right to intervene into city orphan cases, testamentary guardianship still remained the primary starting point of guardianship into the fifteenth century.

In Book III, where Carpenter catalogues the customs of the city, there is no reiteration of the right to wardship per se, but rather, a clear example of the mayor's right to the *marriage* of city orphans. The case used is that of the mayor and aldermen v. Andrew Pikeman, and lays out, in great detail, the correction and punishment meted out to Pikeman for marrying his five-year old ward, Alice to a kinsman.²⁹

It is very likely that the examples referred to in Book IV were meant to convey the same precedents for decisive civic action. With a multitude of cases available for selection as precedents, the choices Carpenter made are significant. Table 7.1 illustrates that his description of the precedents in his index (column 3) are sometimes subjective when compared with the actual detail of the chosen cases (column 6). Nevertheless, both provide, at a point in time, an insight into the city's priorities where orphan matters were concerned. Unsurprisingly, they revolve around the protection of the most valuable aspects of a wardship; the marriage of, and the real estate bequeathed to, a child. Eight of the precedents listed cover an administratively broad range of interventionist eventualities, but the remaining twelve deal specifically with marriage or the management of real estate. Carpenter, or the city at that time, placed a strong emphasis on the effective supervision of minors where underage marriage was concerned. The most detailed, decisive and authoritative example of civic correction, and punishment, is the Pikeman case of 1363, but the investigation and imprisonment of Robert Hurlebat for the same malpractice, as recently

²⁹ The case is referenced again in the index of Book IV: Item 13 in Table 7.1.

as 1415, reinforces the message.³⁰ With the 1328 case of thirteen-year-old Robert Huberd, abducted by William Rameseye and married to his daughter, the city outlines how to deal with the complaint by a guardian of a marriage committed without even his consent.³¹ The 1315 attempt by Simon de Burgh to marry his stepdaughter and ward, aged eight, to his son, aged eleven, sees the city arguing with the king over its rights to intervene in such an inappropriate marriage, and, for the sake of clarity, a good example from 1393, of marriage permission sought and granted, is included in the index.³² The final six examples selected by Carpenter illustrate the accountability of the city for ensuring the correct management of real estate inheritances: providing an inquisition for the value of an estate, correctly assessing an orphan's age, invigilating a dispute over orphans' property rights, ensuring the maintenance of tenements and supporting the claim of a city orphan in a property dispute during wardship.

In all matters of wardship intervention, Carpenter clearly believed that the city needed guidance; his terminology suggests a strong procedural purpose. Terms such as 'process', 'precept', 'inquest' 'commission' and 'grant' are administrative and were probably used to support the emerging civic bureaucracy, even if the headings do somewhat obscure the content of the selected precedents. The actual content of the cases summarised in the final column of the table does, however, show that the selected examples do cover the broad

³⁰ Hurlebat was committed to prison for contempt. Two witnesses were imprisoned and fined and one of them, Nicholas Jamys, merchant, lost the freedom of the city over his contumacy. *CLBI*, 141–2

³¹ *CLBE*, 266

³² In the case of Simon de Burgh, the city wanted to remove the child from her mother and stepfather to protect her from the inappropriateness of marriage to her stepbrother at such a young age. The king argued that the common law principle of an heir passing into the wardship of the next relation who could not benefit from the inheritance meant that she should stay with her mother. London argued its rights to intervene in the event of malpractice. The outcome of the case was sadly unrecorded. *CLBE*, 47; *CLBH*, 394. On the city and altruism, see Chapter 9.

basis of intervention issues the city government might face with any given wardship case. The combination is smart; the terminology in Carpenter's headings lends procedural authority while the specifics of each case provide a good cross-section of detailed examples. What is surprising, although almost incidental to the effectiveness of Carpenter's work, is that, amongst twenty-one selected precedents to illustrate organised, appropriate, decisive and authoritative management of orphan matters, not a single one is from the period of Ralph Strode's tenure. Strode was so assiduous in his execution of orphan matters that it is remarkable that none of his cases were selected by Carpenter as a good precedent for the city.³³ This may be purely circumstantial, but it is possible that, even forty years after his death, Strode's involvement in the restructurings and changes of his time were perceived to be just too radical for John Carpenter and the city as a whole.³⁴

JUBILEE BOOK V LIBER ALBUS ON ORPHANS

Though the oaths of the chamberlain, common sergeant and the aldermen retained clauses on maintaining the rights of orphans, the same clause in the mayor's oath, as it was recorded

³³ John Marchaunt was the link between Ralph Strode and John Carpenter. He became the chamber clerk in 1380 and thus would have been aware of Strode's management of orphan cases and his increasing involvement of the chamberlain. Marchaunt became common clerk in 1399 and handed over to Carpenter in 1417. For John Marchaunt, see *Scribes and the City: London Guildhall Clerks and the Dissemination of Middle English Literature, 1375–1425* ed. L. Mooney and E. Stubbs (Woodbridge and Rochester, 2013), 38–65

³⁴ The city clearly wished to forget such turbulent times. In 1391, the mayor, Adam Bamme had issued an ordinance, written into Letter Book H, forbidding "any one whatsoever to speak or express opinions about Nicholas Brembre and John Northampton, former Mayors of the City, nor show any sign as to which of the two parties they favoured, but the men of the City are to be of one accord and to be silent on the late controversy, under penalty of imprisonment in Neugate for a year and a day." *CLBH*, 364

in the Jubilee Book, is absent from *Liber Albus*.³⁵ Neither do the wardmote articles in *Liber Albus* contain any references to the raising of orphan concerns.³⁶

These differences between the Jubilee Book and *Liber Albus* on orphan matters might perhaps be ascribed to contemporary trust in civic government. As has been outlined in Chapter 6, in 1376, when the Jubilee Book was being compiled, London was caught in a swing from the extremes of abuse and malpractice that had come to a head in the Good Parliament to a counter-reaction for ideological accountability and transparency in civic government. The compilers of the Jubilee Book clearly believed that it was necessary to emphasise that city officers should not be susceptible to bribery or misappropriation and to instruct wardmotes to look out for the abuse of orphan patrimonies; to ensure that even the mayor was held accountable for orphan matters. Perhaps ironically, because of Strode's reforms, by the time of *Liber Albus*, there seems to have been an increased confidence in the mechanics of civic process to counter such mishandlings, and greater faith in those administrative officers such as the chamberlain and the common sergeant, who were appointed by the commonalty, to do right by the city's orphans. By this time, although the mayor was still accountable, the responsibility for city wardships had become an acknowledged function of the court of aldermen, ably supported by the offices of the chamberlain and common sergeant. The emphasis is thus more on the responsibility of the mayor and the aldermen to *act* in a certain way, to the common profit, now well documented and precedented, in accordance with legal prerogative and established custom.³⁷

³⁵ *Liber Albus*, ed. Riley, 265

³⁶ See Chapter 6

³⁷ David Harry asserts the strong moral emphasis in *Liber Albus* on the mayor and alderman to act in the interests of the city. Harry, *Constructing a Civic Community*, 59–62

[cont.]

7.2 1419–1443: A CHANGE IN THE LENS

The publication of *Liber Albus* also marks a point of changing practice in the recording of orphan cases. The numbers of orphan cases recorded in the civic records shown in Figure 7.5 below show that there is something of a decline in volume after 1429, a recording slump which lasts until the 1460s. This does not necessarily reflect a decline in the numbers of orphans in the city but reflects changes to civic recording practices from those in place at the end of the fourteenth century. Until that time, orphan matters had been intertwined with city real estate management and the husting court, but as the common council rose to prominence and civic administration developed so, in the manner of any finely tuned bureaucracy, recording practice followed suit.

THE LETTER BOOKS AND THE JOURNALS

There are many probable reasons why the number of citizens' wills enrolled in the husting court declined so rapidly in the fifteenth century. What is certain is that the nature of wardship business in the city changed as the emphasis shifted from the recording of orphans' property deeds and transactions (largely pursuant to wills) into civic interventions and the full management of inheritances, portions as well as real estate legacies. From the last decades of the fourteenth century, inheritances recorded in orphan cases contained more and more detail of capital sums, reflecting the value of the whole estate, rather than just the income from tenements and rents. This study has concentrated on orphan matters largely arising from husting wills, but it is probable that, should wills held in the commissary (surviving from 1374) and archdeaconry courts (surviving from 1393) and the Prerogative Court of Canterbury (surviving from 1383) be fully researched, the timeline chart of

orphans in testamentary and civic records in the fifteenth century would present a much fuller and consistent picture.³⁸

One probable reason for the decline in secular wills was the slow erasure throughout the fourteenth century of the husting court, as the hub of civic business, in favour of the slowly emerging court of common council.³⁹ This body of men, elected annually and, usually, from the wards and numbering around 100, met around four times a year and, certainly from the 1380s, generated another layer of nuance in the city's orphan cases.⁴⁰ The Journals, which survive from 1416, but were probably started earlier, became the recorded output of the court of aldermen (and the common council when it met) with some decisions also captured in the Letter Books.⁴¹

For the purpose of this study, only those incidences of orphan matters noted by Caroline Barron on her card index to the Journals 1416–63 have been included in the data set.⁴² From that sample, what becomes clear is that the city was still using the Letter Books as a 'headline' record for its orphans. Of the seventy-one individual orphans referenced by

³⁸ This theory is tested with an examination of a cohort of PCC wills from 1478–86. See below.

³⁹ Perhaps more importantly, the number of city clerks increased under an emerging civic secretariat with several clerks recording business from all the city courts under the leadership of the common clerk. Barron, *LLMA*, 129–36

⁴⁰ Throughout the fourteenth century the city swung back and forth as to whether the common councilmen should be elected from the city crafts and guilds or the wards – and, for the latter, how many each ward should return. 300 were recorded at one point, but the figure settled at around ninety-six – or four men per ward – by the late fifteenth century. Williams, *'Commune to Capital'*, 37–43, Barron *LLMA*, 130–1

⁴¹ See Chapter 4.

⁴² LMA, COL/CC/01/02: Index to the Journals, Court of Common Council, 1416–63, compiled by Caroline M. Barron.

Barron in the Journals between 1416 and 1462, sixty-four have a corresponding record in the Letter Books and only seven appear in the Journals alone.⁴³

The case of George Coombes provides an example of what was recorded where. Letter Book K captures a record of his mother, with her co-executors, coming into court in November 1452 when George was almost twenty-one but not considered to be of age to inherit, and entering into a bond with the chamberlain to pay George his inheritance of £400 and £20 worth of plate upon his attaining majority.⁴⁴ That occurred, and was duly recorded in the Letter Book and in the mayor's court rolls, in May 1455.⁴⁵ However, between these two dates, George Coombes appeared before the court of aldermen on five occasions, the detail of which is only recorded in the Journals. Each is a case of intervention as the hapless young man is pulled into various rogue deals and enticements to part with his impending inheritance, resulting in the court changing his guardian, allowing him a release of money early to pay off his debts and binding him in the sum of £100 not to enter into any further obligations or loans without their consent.⁴⁶

⁴³ Margaret and Thomasina Saint Jermyn (1428, 1429) and [unknown] Peignel (1444) were given permission to marry, Richard Aghton (1420) and Henry Perveys (1437) were apprenticed, Robert Bryan (1418) changed guardians and Margaret Beaumont (1424) was fined for marrying without the permission of the court. Jor. 1, f. 52r, f. 77v; Jor. 2, f. 19v, 112v, 135v; Jor. 3, f. 201v; Jor. 4, f. 49r

⁴⁴ George's father, William Coombes was a stockfishmonger, and alderman (Farringdon Without 1437-51; Castle Baynard 1452). He was MP for London in 1447 and died around June 1452. His will was enrolled in the PCC in July 1452: in it he made Katherine his wife his principal executor and custodian of his son, George. PCC PROB 11/1/245, *History of Parliament: Registers of the Ministers and of the Members of Both Houses, 1439-1509* (London, 1938), 81

⁴⁵ CLBK, 349, CPMR 1437-57, 146

⁴⁶ Following these misdemeanours, even George's request to marry was treated with suspicion by the court until he promised that he was acting of his own volition and without the coercion of others. George Coombes' case is examined in full in C. Barron, 'The Government of London and its Relations with the Crown 1400-1450' (PhD thesis, University of London, 1970), 218-20

Analysis of the other sixty-four sampled 'Letter Book cases with a Journal entry' shows a consistent picture. In sixty-one of these, the Letter Book entries record only the assessment of a patrimony and the name of an appointed guardian (forty-eight entries) or the acknowledgement of receipt of an inheritance upon coming of age or marriage (thirteen entries). Two record the death of an orphan and just one refers to an extra-procedural activity – a summons by writ from the king. The related Journals entries for these cases record permissions to marry, approval for apprenticeships, transgressions and interventions such as those needed for George Coombes and, especially where only the initiation of the guardianship is recorded in the Letter Books, a record of receipt of the patrimony at the attainment of majority or marriage. By the fifteenth century then, the Letter Book evidence for orphan matters was still only a partial representation of the city's wardship business; where previously it has been demonstrated that wills and property transactions significantly supplemented orphan records in the Letter Books, by the fifteenth century, the city's bureaucratic development meant that the minutiae of cases were spread across a range of civic courts and registers.

THE WARDMOTE RETURNS

The wardmote returns of 1422 and 1423 might seem, at first glance, to prove this point further, as both include concerns for city orphans. In 1422, in Candlewick ward, citizens were concerned that "Emmery Manatay conceals, and has in his keeping, the goods of orphans belonging to Thomas Stanyngburghe", and in Bridge ward, they presented the four orphaned children of Adam Broun and the five of William Strete.⁴⁷ In 1423, the community of Farringdon Without presented Roger Mannynge for "withholding 18 marks from Roger Bonfaunt, a child under age, praying that the mayor and aldermen would send for Roger and

⁴⁷ *CPMR 1413–37*, 132, 140

receive money from him and put it in the chamber, because he is not sufficient.”⁴⁸ Although brief, these instances are suggestive. Firstly, they show that, although the specific instruction in the wardmote articles of the Jubilee Book to report on anyone concealing the goods of orphans were not replicated in *Liber Albus*, the practice might have taken hold to some extent and continued into the fifteenth century.⁴⁹ The numbers of intervention cases recorded in the Letter Books without reference to a will or other, earlier, record of the wardship may owe their origins to this source, and it was possible that this is where the common sergeant found some of his cases to plead on behalf of city orphans. Secondly, they show that even wardship interventions initiated by concerned citizens were not completely recorded through the full cycle of the case. In only one of the orphan wardmote returns is there a traceable follow up: in 1428, the custody of Johanna Flete, daughter of the fishmonger William Flete, was given to a fellow fishmonger, Thomas Berwell, who had married her mother Alice.⁵⁰ That is not to say that wardmote concerns were not addressed, just that gaps in the records of cases appear at all levels.⁵¹ Thirdly, although the outcome of the Roger Mannyng case is also unknown, its significance lies in the illustration that not only was there an established process by this time for the payment of patrimonies into the chamber under the protection of the chamberlain, but also that the citizens of London, even at the most humble level, were fully aware of it and their children’s right to it. Finally, from a recording point of view, these returns reinforce the point that not everything that was

⁴⁸ CPMR 1413–37, 158

⁴⁹ *Jubilee Book*, ed. Barron and Wright, introduction. Chapter 6.

⁵⁰ CLBK, 85

⁵¹ It was likely ascertained that both men had devised guardianship of their children to their widows. Flete’s will does not survive but Broun’s was enrolled in the commissary court in 1421. *Testamentary Records, Commissary Court* ed. Fitch, 30

regularly discussed on orphan matters was deemed worthy of enrolling in city repositories, or if it was, has not necessarily survived.⁵²

However, the wardmote returns, as evidence for local-level investigations of orphan matters, need to be treated with care. Carlton suggests that they were one of only two changes to orphan procedures in the medieval period, but he presents only the examples from the 1422–23 presentments as evidence.⁵³ The lack of surviving records invalidates the formation of any real conclusion; however, what does remain does not support Carlton's argument. Only fragments of returns survive: a partial return of five wards in 1373; the 1422 and 1423 returns discussed above and a series of full and detailed, though not chronologically complete, returns for Portsoken ward dating from 1465–70, 1471–6, 1479–83 and 1502–03.⁵⁴ That, with the exception of the two examples above, no references to orphan matters in any of these presentments exists is perhaps telling. A lack of presentment for wardship matters in the 1373 example might support the subsequent instruction, in the wardmote articles of the Jubilee Book, to report and investigate orphan concerns at ward level. However, the complete lack of any reference to orphan concerns in the detailed, later fifteenth-century, Portsoken returns upends any assumption that wardmote orphan reporting, as seen in 1422–23, had become a regular occurrence. Rather, it serves to suggest that the bureaucratic management of orphan affairs had, by that time, shifted again and the

⁵² A.H. Thomas has suggested that it was not considered necessary to copy the returns into the rolls and books of the city and that it is probable that those few which were copied were, for the most part, destroyed in the Great Fire of London in 1666. *CPMR 1413–37*, xxiv

⁵³ Carlton, 21–2

⁵⁴ The fifteenth century Portsoken returns are fully transcribed and assessed in C. Winter, 'The Portsoken Presentments: An Analysis of a London Ward in the 15th Century' in *Transactions of the London and Middlesex Archaeological Society*, 56 (2005), 97–162

office of the common sergeant was becoming more efficient at seeking out city orphan estates for the chamberlain to administer.

7.3 1443–1461: THE EMERGENCE OF THE BOND SYSTEM

If the acceptance of accountability and the restructuring of wardship management in the 1370s accounted for the first real shake up in London's approach to its control of orphan affairs, then the second came in the procedural retrenchment visible in *Liber Albus*, and the move to develop a system of recognizances and bonds for the protection and management of orphan inheritances.

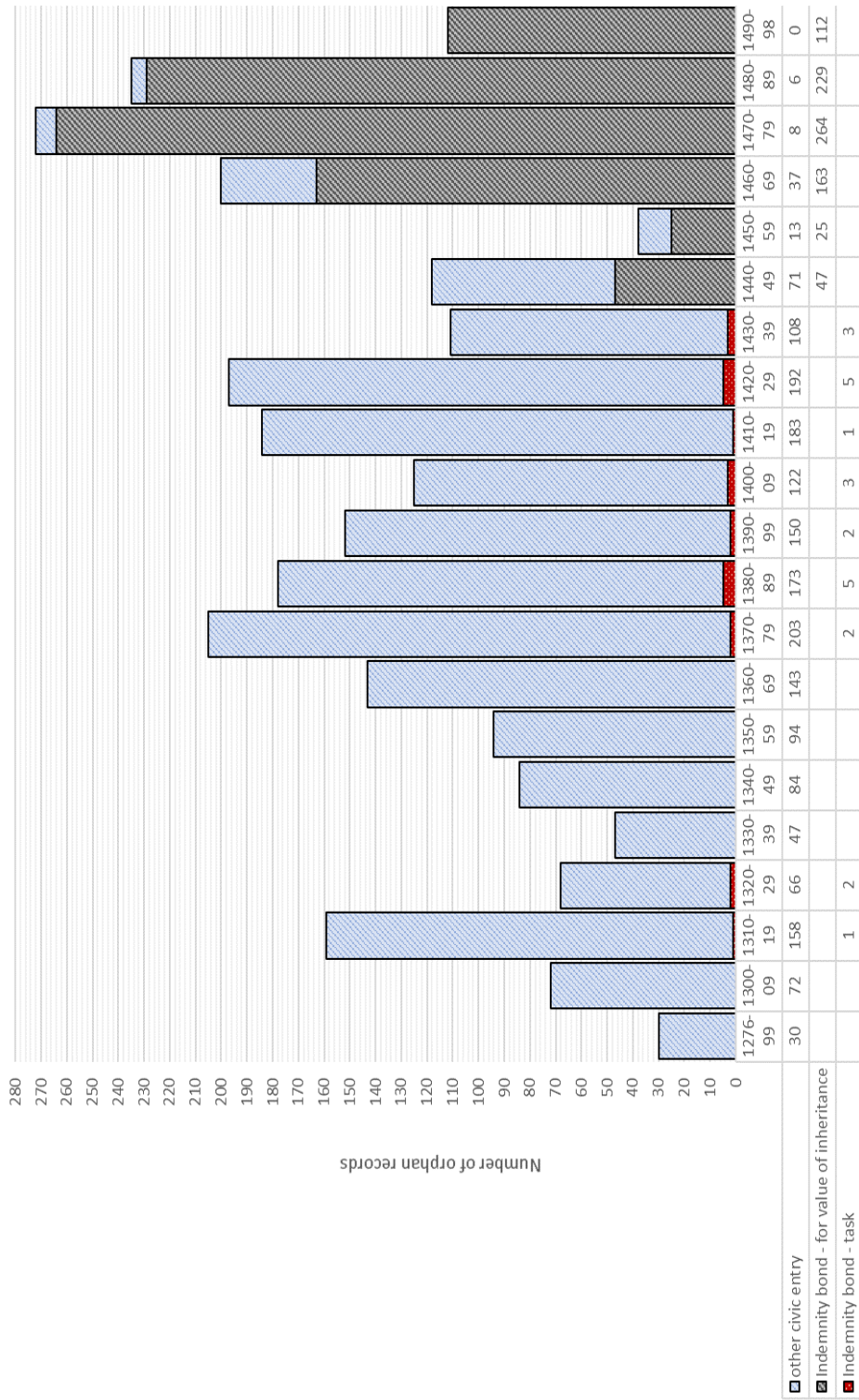
Several external circumstances, not least the ongoing war with France, affected the city as the fifteenth century took hold. Economic difficulties and, certainly by the 1440s and 1450s, a depression which had hit even the prosperous Londoners to some extent, caused an unusually high volume of debt cases.⁵⁵ Credit was at a premium.⁵⁶ However, with cash capital emerging as the new valuable asset in inheritance (and real estate diminishing by comparison) London had a ready source of credit, unaffected by short-term fluctuations in the economy.⁵⁷ But they also needed to find more sophisticated ways to protect these, increasingly quite substantial, sums of money from erosion while in the hands of a guardian, or debtor.

⁵⁵ Tucker, 149

⁵⁶ M. F. Stevens, "London Creditors and the Fifteenth Century Depression", *Economic History Review*, 69, (2016), 1083–1107

⁵⁷ For a discussion of the value of orphan inheritances to the city, see Chapter 9.

FIGURE 7-3: RECOGNIZANCES WITH BONDS [BY RECORD], AS A PROPORTION OF TOTAL RECORDS IN THE LETTER BOOKS, 1276–1498



Sources: CLBA–L

Figure 7.3 shows clearly that from the 1440s onwards, the wardship entries in the Letter Books ceased to be recordings of case details and became mostly (and by the 1490s, only) the record of recognizances.⁵⁸ These standardised entries constituted a recognizance, or promise, bound in law and supported by a financial bond of indemnity, to pay a sum (all or part of an inheritance) back to orphans at their coming of age. Why this happened when it did is conjectural and discussed below, but the impact on both recording practice (and thus the lens through which historians have since viewed London's wardship) and the gathering momentum for the highly administrative procedure that would become enshrined in an official court of orphans by the end of the century, is substantial.

PRECEDENT

As Figure 7.3 displays, bonds had been used, albeit very infrequently, prior to the 1440s. However, an examination of these instances shows that there is a difference in their use. Each recording of a bond of indemnity before 1440 relates to a task: the bond acts as financial security on a promise to *do* something. In 1324, for example, the three executors of William atte Conduit had bound themselves in the sum of £23 to Isabella, his daughter. Once the money was recovered and handed to her guardian, the bond was cancelled.⁵⁹

As Chapter 6 has illustrated, Ralph Strode was the first, after these three early examples, to make use of bonds of indemnity as insurance to ensure suspect or miscreant parties in orphan cases completed tasks the court had set them.⁶⁰ Eight further instances of bonds being used to provide indemnity for a task or insurance against a circumstance followed

⁵⁸ This continued into the sixteenth century with orphan recognizances making up large percentages of the material captured in the court of aldermen Repertories.

⁵⁹ See also the similar cases of John Tan in 1311 and Alice Beckles in 1316. *CLBD*, 189; *CLBE*, 69, 185

⁶⁰ He did so on four occasions during his tenure. *CLBH*, 51, 126, 141, 148. See Chapter 6.

between 1390 and 1436.⁶¹ For example, in 1421, when seventeen-year-old William Shawe expressed a wish to enter the Order of the Benedictines at the Abbey of St Alban's and asked for his inheritance to pay for his being professed, the mayor and aldermen, upon finding that the £20 was to be split between his siblings should William die before majority, insisted that he find security to refund the money in that instance. Two years later, Thomas Wych entered into a bond to pay £20 back to the executors should William die. Happily, William did not and when he came of age in 1423, the bond was cancelled.⁶²

In 1440, there was a subtle change to the bond process. On Friday 23 September of that year, Thomas Beamond, John Legge, Henry Belle, William Petevyle, William atte Welle, and Master Thomas Tristram appeared in court before Robert Large, the mayor, and the aldermen, and "entered into bond for the payment of £40 to Thomas, son of Thomas Burnage, late salter, on his coming of age."⁶³ This was not a bond indemnifying a task or a circumstance. This, for the first time, was a bond of indemnity for a capital sum for the duration of a wardship. In other words, it was the record of a promise, backed by a financial penalty, to pay back a loan.

TIMING

The grant and management of bonds of indemnity supporting recognizances (promises) to return a capital sum to an orphan when he/she came of age was henceforth to become the essence of orphan transactions in the Letter Books and, after 1498, the Repertories. As early as 1428, the common council had ratified the city custom that the chamberlain, should he wish to, was empowered to summon before him all those who were in possession of

⁶¹ *CLBH*, 357; *CLBI*, 16, 21, 68, 153, 263; *CLBK*, 25, 195

⁶² *CLBI*, 231, 263

⁶³ *CLBK*, 248

orphans' goods and that, when he did, the common sergeant, the recorder and all the chamber officials should be present to deal with any problems that might arise. But, it was stated, in difficult or ambiguous cases, security must not be taken, nor goods handed over without the assent of a higher court.⁶⁴ This last instruction gives a clue as to why recognizances and bonds were captured in the Letter Books and not in the records of the chamberlain: once again, the reason is embedded in the evolution of English common law.

COMMON LAW DEVELOPMENTS: *SUR OBLIGATIONE* AND *ASSUMPSIT*

The key to why and where these records were enrolled lies not in the financial element of the insurance, the bond, but in the recognizance itself; the promise to pay back the capital sum at the end of a wardship.

London had held the right to manage debt under merchant law since 1285: in other words, the mayor and aldermen could hear and resolve cases of commercial debt in the city.⁶⁵ The law of wager was still widely in use and was the primary method of proof in informal debt actions; this being the system whereby a defendant produced oath-bearers or mainprisors who swore to the good character of the defendant, rather than to the facts being presented to the court. But as the action of *assumpsit*, the ability to be able to act on the breach of a promise in law, took a hold during the fourteenth century, it became the norm for courts to demand recorded proof of a contract of debt. So, still in the sphere of Law Merchant, recognizances were becoming a popular device for recording consensual agreements; parties would come before a court to acknowledge their agreement to pay out a debt at the start of the process. The court's enrolment of these promises was key. The record became

⁶⁴ Jor. 2, f. 112v

⁶⁵ Carlton, 15; Tucker, 118; J.H. Baker, 'The Law Merchant and the Common Law before 1700' *The Cambridge Law Journal*, 38 no. 2 (1979), 299

the debt judgement: if there were a default, there was no need for a trial, liability was acknowledged, and execution accepted by producing the court records.⁶⁶

However, merchant law was not the same as common law; at least, medieval lawyers regarded the two differently.⁶⁷ Debt managed in the mayor's court was minimal until well into the fifteenth century.⁶⁸ But common law was evolving too. By the end of the fourteenth century, actions which did not involve criminal activity could be heard in city courts. In these, a plaintiff would set out his case, specifying the damage sustained, which justified the bringing of an action. This was known as a 'trespass on the case' and gave rise to several forms of action which could be brought in common law courts, including 'writs of debt *sur obligatione*'. These involved the use of the recorded recognizance, or promise, as used in law merchant, but now bound by a contractual seal, which was normally referred to as a bond or obligation. Although they were regarded in law as a contract, the terms 'bond' or 'obligation' were used to distinguish them from the more informal contracts, such as the sale of goods governed by merchant law.⁶⁹ The action of *assumpsit*, the ability to bring an action for debt recovery in a common law court on the basis of a *recorded* financial obligation, had reached a maturity of which Londoners could take advantage.⁷⁰

⁶⁶ This was a much quicker way of managing legalities when dealing in merchant business than engaging in writs of covenant. K. Teeven, "Proving Fifteenth Century Promises" *Osgoode Hall Law Journal* 24 no. 1 (1986) 126–7

⁶⁷ Baker, 'Law Merchant', 299

⁶⁸ Debts were regularly heard in the Sheriffs court of London, but until the mid-fifteenth century, more than half the debts heard in the mayor's court were under £4. Barron, *LLMA*, 61

⁶⁹ A.W.B. Simpson, *The History of the Common Law of Contract; the Rise of the Action of Assumpsit* (Oxford, 1975), 52; Teeven, 'Fifteenth Century Promises', 126–7. See also G.F. Deiser, "The Origin of Assumpsit." *Harvard Law Review*, 25, (1912) 428–42

⁷⁰ In a case involving the London merchant Elias Davy in the mayor's court in 1436, it was accepted that the law of *assumpsit* stood – that the court acknowledged the acceptance of a legally transferable [cont.]

For orphan matters, the 1440s marked the point at which this opportunity took hold. With a system of court enrolment of recognizances as evidence of a contract (recorded in the Letter Books rather than the day-to-day procedural Journals), supported by an action of debt *sur obligatione*, in the form of a sealed document known as a conditional bond, the city had an effective procedure for debt recovery in common law as well as merchant law. This meant that orphan estates under financial guardianship could now be managed as loans.

THE 1443 COMMISSION OF THE PEACE

Commissions of the Peace throughout the fourteenth century had granted London varying degrees of magisterial right over common law actions, but it is difficult to determine exactly what this meant in terms of the fine detail of the mayor's legal, and judicial, rights in the city courts at any given time.⁷¹ It would certainly seem that the mayor was regarded as a Justice of the Peace following the Justices of the Peace Act of 1361. This act conferred the position on all those previously holding the role of Guardian of the Peace on behalf of the king, granting the right to hear and terminate cases in common law which might previously have been solely within the jurisdiction of the royal courts.⁷²

The 1443 Commission of the Peace appears to have given London the right to have the "three or four" additional Justices of the Peace (granted in 1361 to county judges) to act alongside the mayor, thereby considerably opening up and strengthening the ability of the civic elites to sit in justice in the city. This was deemed contentious enough by citizens to

credit instrument and that the creditor might sue in the mayor's court. *Select Cases Concerning the Law Merchant 1251–1775*, ed. H. Hall, 3 vols (Selden Society, 1932), iii. 117–9. See also, Barron *LLMA*, 62

⁷¹ The integration of the mayor and aldermen into the national system of local jurisdiction was long and protracted. See *CPMR 1323–64*, i-xxxiii

⁷² *The Statutes at Large, from the Fifteenth Year of King Edward III to the Thirteenth Year of King Hen. IV inclusive*, ed. G. Britain and D. Pickering (1762), ii. 135

cause disturbances at this strengthening of aldermanic power, and yet it was deemed important enough by the governing body to request incorporation into a royal charter.⁷³ In that charter, dated a year later, the king confirmed that, henceforth, the mayor and recorder and all aldermen who had served as mayor might be keepers of the peace and that four of them so defined, at any one time (of which the mayor and recorder must always be two) should be Justices of the Peace.⁷⁴ This meant, among other things, that four city representatives had the confirmed right to adjudicate in matters of debt in common law.⁷⁵ This can only have had the effect of opening up the court of aldermen, in addition to the mayor's court, to a higher level of common law activity. In 1455, it was ordained that no alderman should act in the capacity of mainpernor, for bonds or under oath as a surety, for anyone holding orphans' goods.⁷⁶ It seems likely that these developments were responsible for the rise in the number of recognizances and bonds for orphan patrimonies which were enrolled in the records of the court of aldermen via the agency of a legally recognised writ of debt *sur obligatione*.⁷⁷

What all of this means was that London had come full circle in its recording of orphan matters. There was a constant at work, underpinning two centuries of civic change: the enrolment, in a legally binding manner, of a citizen's devised legacy. When the husting court had been in the ascendancy, this had meant the enrolment of deeds (often in the form of wills) and writs of covenant, recording the transfer of property from father to heir in

⁷³ C.M. Barron, 'Ralph Holland and the London Radicals, 1438-1444' in *The Medieval Town; A Reader in English Urban History* ed. R. Holt and G. Rosser (London, 1990), 173-4

⁷⁴ *CChR*, Hen.VI-Hen VIII, vi. 41

⁷⁵ Tucker, 83, 99, 101

⁷⁶ Jor. 5, f. 238v

⁷⁷ It is noted by Bohun that 'after a bond given, the executor must procure four freemen to appraise the testator's goods and must cause them to appear before a Justice of the Peace in London, to make a just, true and valuable appraisement.' Bohun, 291

accordance with common [burgage] law. By the end of the fifteenth century, when the folkmoot/husting method of jurisdiction had been replaced by the civic machinery of the common council and an efficient bureaucracy, it meant the protection of the whole inheritance under common law through the enrolment of the devised estate as a legal debt. Either way, the most formal records of the city, the Letter Books, were clearly intended to be more of a legal repository to record the transfer of wealth (property or a mercantile estate) between London citizens and their heirs, and who at any given time was accountable for it, than a detailed record of wardship management.

7.4 1461–1536: CIVIC CONTROL AND WHAT LAY BENEATH

This argument is supported by the fact (illustrated by Figure 7.3) that, from 1461, the records of orphan matters in the Letter Books, and even thereafter in the repertories, are almost entirely enrolments of recognizances and bonds.

At first these were simply bonds of indemnity. They took a standard form: the recognizance to pay a sum of money into the chamber at the end of the period of wardship was insured by the guardian entering into a contractual bond (underwritten by three or four financial guarantors) with the chamberlain to pay a certain sum (the value of the child's inheritance) into the chamber at a given point in time (almost always the child's coming of age or marriage). For example

December 1446: On this day came Henry Dukemantone with sureties ...into the court of the Lord King In the chamber of the guildhall before the mayor and aldermen and entered into a bond with the chamberlain in the sum of 500 marks for the payment of the said sum by Henry [Dukemantone] to John [Dukemantone] when he comes of age.⁷⁸

⁷⁸ *CLBK*, 318

Entries like this occur frequently in the Letter Books in the 1440s and 1450s. However, it is probable that thereafter, civic efficiency and common law protection against default allowed the evolution of mere indemnity of guardianship into a more structured form of credit. Recognizances in the Letter Books from the 1460s took on a slightly different form: an inheritance, having been paid into the city chamber by executors, was then loaned out to a London citizen/investor (William Boylet, in the example below). The chamberlain entered into a contractual transaction with this person (who may or may not have been known to the orphaned children) and three mandated ‘obligatones’ (in this case, John Stone, Thomas Burgeys and Richard West) to take a sum of money (£90) for a defined period of time (usually, as in this case, until an heir’s coming of age) and return it with the interest carefully split amongst the orphan(s) and the investors to protect against usury: ⁷⁹

Monday, 20 March, 1 Edward IV. [A.D. 1460-1], came William Boylet, John Stone, Thomas Burgeys, and Richard West, tailors, into the Court of the lord the King in the Chamber of the Guildhall, before Richard Lee, the Mayor, and the Aldermen, and entered into bond with Thomas Thorntone, the Chamberlain, in the sum of £90, for payment into the Chamber by the said William Boylet of a like sum to the use of Hugh, Thomas, Richard, and Agnes, children of Richard Rook, late tailor, on their coming of age or the marriage of the said Agnes.⁸⁰

The difference between the two examples is subtle. In the 1446 case, the will of the mercer Thomas Dukemantone, devises the exact sum of 500 marks to his son John and appoints Henry, his brother, guardian with responsibility for the money until John comes of age.⁸¹

⁷⁹ Bohun, 292

⁸⁰ In his footnote to this entry, Sharpe points out that this is the common form for orphan recognisances used henceforth in the Letter Books and later, in the Repertories. *CLBL*, 3

⁸¹ *CLBK*, 400

This is a testamentary guardianship protected by the civic procedure of an enrolled indemnity bond.

However, the second example, and the hundreds which follow it, makes no mention of guardianship. There is always a main recipient and always three others listed alongside him. Whether these men are co-debtors or underwriters is unclear at this time.⁸² But, an examination of a sample of Londoners' wills enrolled in the Prerogative Court of Canterbury, against associated recognizances enrolled in the Letter Books, shows a disconnect between testamentary guardians (where appointed) and the city merchants listed in recognizance as recipients of a child's capital patrimony. Robert Middleton, Richard Beele, Richard Baret and Richard Kelet all provided testamentary guardianship for their children in wills enrolled between 1479 and 1485.⁸³ In each case, a recognizance for the children's inheritance appears in Letter Book L between seven months and four years after the enrolment of the will.⁸⁴ Also in each case, the four named persons entering into a bond with the chamberlain to return the sum to the orphans on coming of age, bear no resemblance to executors, guardians or even anyone named in the father's will. Moreover, the sums of money in the enrolled recognizance are greater than the devised capital sums in the wills, allowing for a carefully controlled return of interest to the city, or to the orphan.⁸⁵ It would seem that, by

⁸² In the seventeenth century, when Bohun captured the civic process for wardship bonds, the four are co-debtors. Bohun, 291

⁸³ *PCC Logge* i. 3, 352, 374; ii. 39

⁸⁴ *CLBK*, 178, 206, 211, 285

⁸⁵ This was carefully managed so as not to be seen as usurious. The city had a duty to keep a check on unlawful profit-taking on loans and was concerned with the issue of usury throughout the fifteenth century, including it in the wardmote articles in *Liber Albus* and even instigating trials against usurious citizens in 1421. It is likely that the carefully drawn up instructions for the return of interest on orphan recognizances seen in Bohun in the seventeenth century were probably instigated at this time. Bohun, 292; *Liber Albus*, ed. Riley, 291. For London and the issue of usury see, Barron, 'London [cont.]

this time, orphan patrimonies were being used as a formalised source of credit managed by the office of the chamberlain and held in check by the enrolment of a recognizance in the records of the court of aldermen.

A lack of records for the city chamberlain during this period prevents any conclusion being drawn as to the detail and process behind the full recording of orphan estates. However, some circumstantial evidence suggests that the administrative relationship between the chamberlain and common sergeant was already working by this time. It is known that, by the later sixteenth century, the estates of deceased citizens were inventoried by the office of the common sergeant and then logged in the ledgers of the chamberlain.⁸⁶ The lack of any orphan issues at all in the detail of the Portsoken wardmote presentations from the 1460s to the 1480s strengthens the possibility that this process was working to a large extent by the second half of the fifteenth century and was already underpinning the Letter Book recordings of recognizance .

What is certain is that by the later fifteenth century, once again, the Letter Books show only the tip of the iceberg where orphan matters are concerned and, by the end of the period, had become very disconnected from the welfare (or even the placement) of the child. It has been shown that the detail of interventions into guardianships (corrections of abuses, permission to marry or be put to apprenticeship and even reaching the age of majority) continued to be recorded in the city's Journals. With the decline in the numbers of citizens' wills enrolled in the husting court, and the progressive increase in civic recordings of orphanages, it might be assumed that the efficiency of the city bureaucracy had replaced testamentary guardianship

and the Crown', 220–5 and G. Seabourne, "Controlling Commercial Morality in Late Medieval London: The Usury Trials of 1421" *Journal of Legal History*, 19 (1998), 116–42

⁸⁶ *Chamber Accounts*, ed. Masters, 9–10, 62; Carlton, 43 and *fn.* 5. See Chapter 1.

and that wardship practice had become purely civic. However, this was, in fact, very much *not* the case.

FIFTEENTH CENTURY WILLS AND TESTAMENTARY GUARDIANSHIP

This study undertook to use the wills enrolled in the husting court to evaluate the civic entries in the Letter Books and Plea and Memoranda rolls. Figure 7.4 shows that the number of citizens' wills enrolled in the husting court declined dramatically as the fifteenth century progressed. Wills were instead enrolled in one of the three diocesan courts covering London; the archdeaconry court, the Bishop of London's commissary court or the Archbishop of Canterbury's prerogative court.⁸⁷ Wills for the fifteenth century enrolled in these courts amount to many thousands and a similar detailed analysis to that undertaken for the husting court wills proved beyond the scope of this thesis.

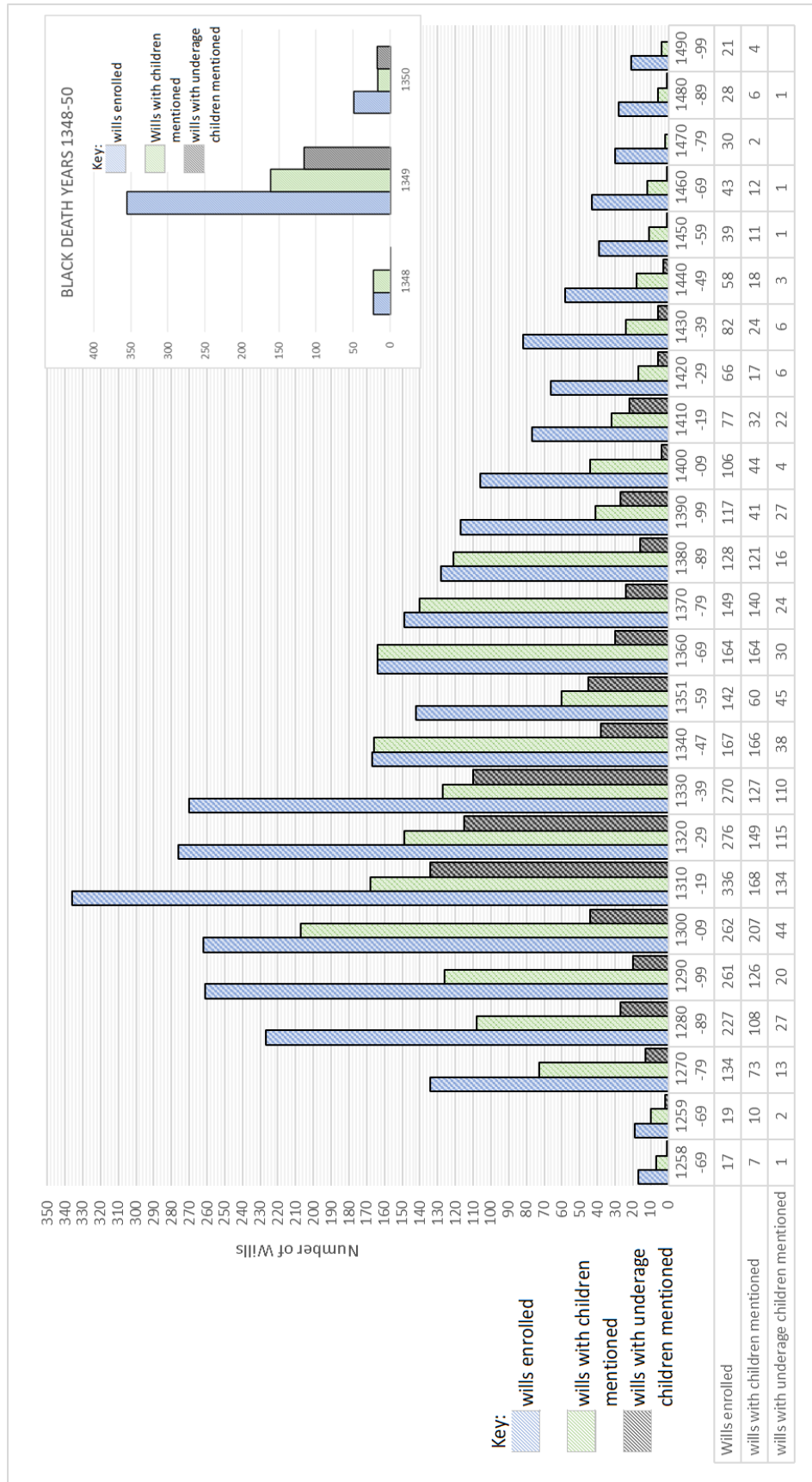
However, the transcription and publication of the *Logge* Register of wills enrolled in the Prerogative Court of Canterbury presented the opportunity to assess a sample of Londoners' wills for the years 1478–86 with the same criteria used on the husting wills.⁸⁸ These findings have been added to Figure 7.5 as an illustration of the difference a thorough analysis of fifteenth century church court wills might make to the statistical presentations of this thesis. The *Logge* Register case study also provides several points of note.

Firstly, as discussed above, they present the evidence for the use of orphan patrimonies as a source of credit. Secondly, investigation shows, with some clarity, that civic procedure did not replace testamentary guardianship as the fifteenth century progressed.

⁸⁷ see Chapter 2.

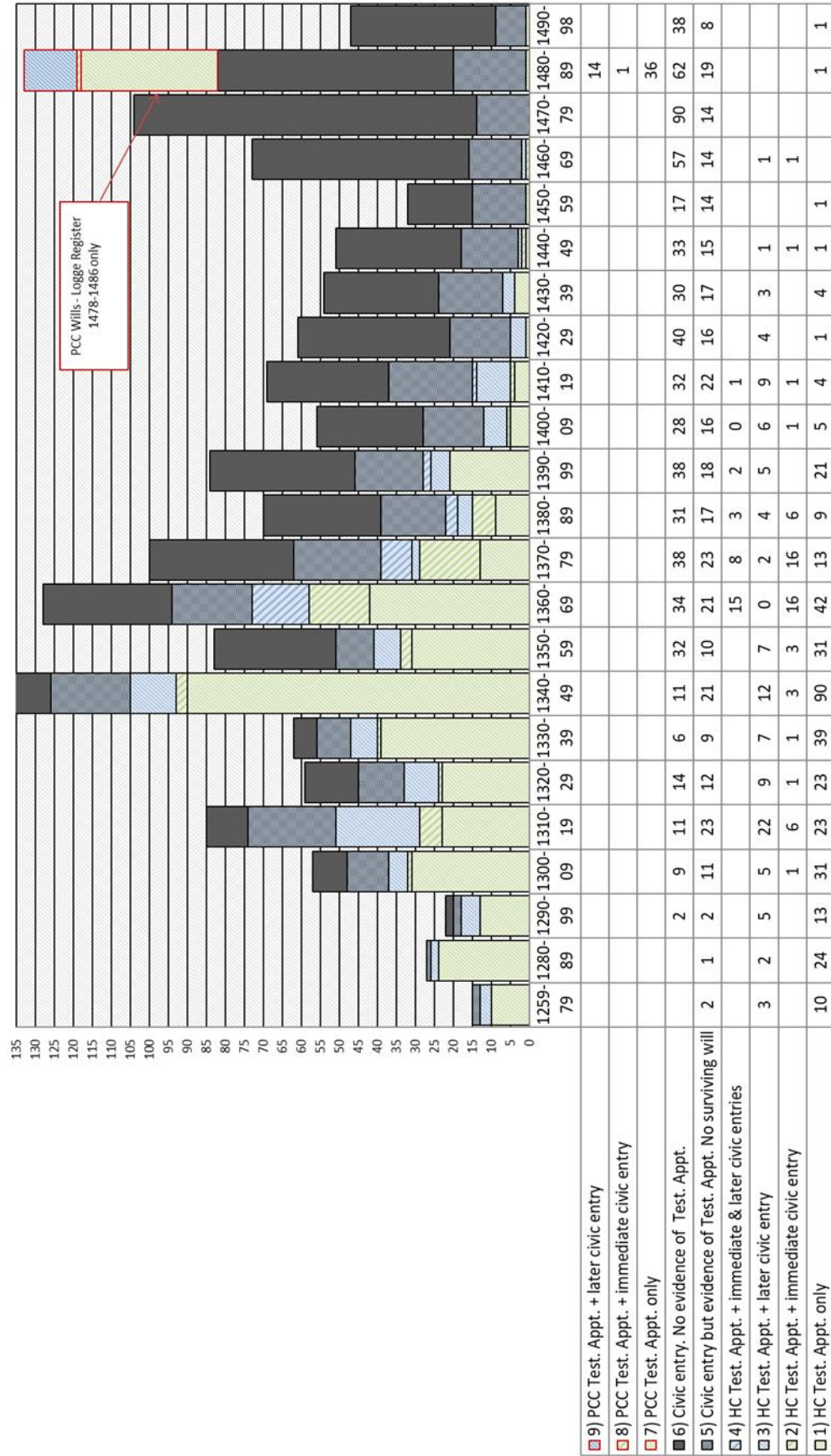
⁸⁸ The National Archives were closed at the time of this research due to the 2020 pandemic.

FIGURE 7-4: NUMBERS OF WILLS ENROLLED IN THE HUSTING COURT 1258-1498



Source: *CWCH* i., ii.

FIGURE 7-5: FIRST INSTANCE RECORDING OF WARDSHIPS (BY FAMILY). HUSTING COURT TESTAMENTARY V. CIVIC 1259-1498

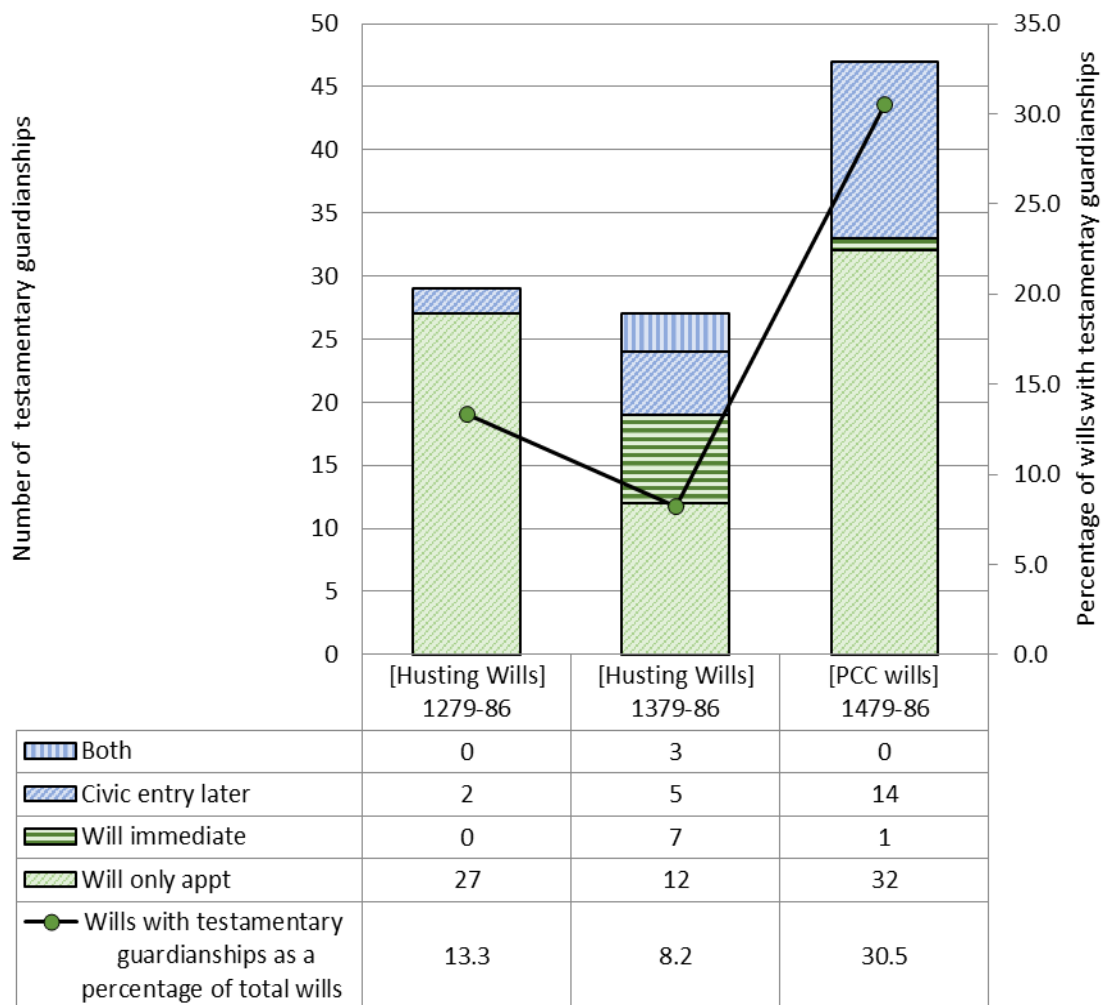


Sources: *CLBA-L*; *CEMCR*; *CPMR* i-vi; *Jor.*, i-iv; *CWCH* i., ii; *PCC Logge* i., ii. This data is replicated from table 4.1

7: Rise of Bureaucracy

Rather, the comparison of husting wills enrolled between 1279–86 and 1379–86 with those in the *Logge* Register for London citizens between 1479–86, shown in Figure 7.6, shows that 30% of the total number of wills enrolled in the 1479–86 sample contained testamentary guardianships, compared with 13.3% of the total number in the thirteenth-century sample and only 8.2% in that of the fourteenth century. Testamentary guardianships were not decreasing at the end of the fifteenth century.

Figure 7-6: Comparison of testamentary guardianships; volumes by category and as a percentage of total wills in each sample



SOURCES: *CWCH* i., ii; *PCC Logge* i., ii.

The addition of *Logge* Register wills data into the chart showing the wardships at first recording (testamentary v. civic) in Figure 7.5 suggests that a comparative study of all Londoners' wills in the fifteenth century would present a much more consistent picture than is shown by the analysis of husting wills v. civic records alone. The PCC wills reveal that Londoners, regardless of where they enrolled their wills, maintained a high instance of testamentary guardianship throughout the period of study, with 27.3% of guardianships between 1479-86 never showing a concurrent, or subsequent, entry in the Letter Books; a percentage comparable to the end of the fourteenth century. While other church court wills have not been fully assessed in this manner, a number of sampled consistory court wills and Robert Wood's work on the archdeaconry court of London have suggested that the findings of the PCC court register would hold true should a thorough assessment be made.⁸⁹

Finally, the PCC wills sample allow a more accurate analysis of the role of women in guardianship to be projected into the fifteenth century, evidence that will be discussed in Chapter 8.

THE DEVELOPMENT OF A COURT OF ORPHANS

By the last decade of the fifteenth century, what is captured in the Letter Books alone ceases to be a record of orphan case management and becomes instead a record of legally binding

⁸⁹ The wills of William Kyngman, vintner (1396) LMA 9171/1 f. 379; Robert Bridport, skinner (1404); GL MS 9051/1 f.123v; Thomas Corton, haberdasher (1410), LMA 9171/2 ff. 171v-173; Johanna Drope, widow of Walter Drope, butcher (1459), MS 9171/5 ff. 273-273v; Richard Swan, skinner (1493) TNA PROB 11/9/313, all contain testamentary guardian appointments. I am indebted to Christian Steer and Maggie Bolton for bringing these instances to my attention. In the archdeaconry court, Robert Wood noted that, while sixteen testators between 1393-1415 named guardians and stated that the care of their underage children was to be in accordance with the city custom for orphans, only three cases are recorded in the Letter Books. Wood, 'Life and Death', 159

enrolment of recognizances and bonds of patrimonial loans from the city chamber's 'orphan fund'. With these changes in mind, it is unsurprising that in 1492, an ordinance decreed that:

all those who entered into a bond for orphans' goods should be yearly in the council chamber of the Guildhall on Monday next after mid-Lent Sunday to the intent that it may appear to the mayor and aldermen whether the persons so bound were alive or dead and were living in the city or not.⁹⁰

This has been seen as the first evidence for a court of orphans.⁹¹ While this decision may mark an important step in the evolution of such a court, the ordinance, in the context of the day, was more a method for tightening control over the increasing numbers of recognizances and bonds being enrolled before the court of aldermen.⁹²

The early modern model of a court of orphans still did not exist, even by the turn of the century. What did exist was a formal acknowledgement of a city custom and legal right, an overarching policy that the city was prepared to defend. Accountability and responsibility were enshrined in civic oaths and offices and the guidance for managing these was laid down in the city's customals. The 1492 ordinance may have marked the point at which an annual audit of orphan accounts was mandated, but it still only related to a part of orphan business. The city took a step further in 1520 with an instruction, recorded in the Repertories, that required the identification of city orphans at the time of their fathers' deaths.⁹³ Until this point the management of orphan matters in London could only ever have

⁹⁰ *CLBL*, 286

⁹¹ Barron, *LLMA*, 269, Carlton, 22, 36

⁹² In 1532, the court of aldermen and the chamberlain, acting in the interests of orphans, drew up the first tables of finding money and interest to regulate orphan inheritances used as credit in the city. Carlton, 36

⁹³ The reminders to do so were frequent and in 1546, the court of aldermen charged all parish clerks to do the same. Carlton, 34

been reactive action, under civic custom, to act on a plea or a complaint: the city governors would never have had a full record of all citizens' orphans. Only when they regularly knew, with certainty, the exact details of *all* the children who were entitled to draw on its protection, could they claim to have full oversight, if not control, of wardship. But oversight was all they had: orphanages were still being devised in wills, managed through executors and operating outside of the city's administration and procedures without ever having any recourse to them. A telling example is the case of John Twisilton, London goldsmith (d.1527), whose executor, Christopher More, kept a myriad of documentation relating to the enactment of his will. Twisilton died with two underage sons and appointed Ralph Lathum (the husband of Twisilton's elder daughter), Thomas Lathum, and Henry Averell, all goldsmiths, as their legal and financial guardians by his will. They are not entered into the Letter Books at all, and the significant point is that the bond was drawn up between the executor, Christopher More, and Ralph Lathum, not the city chamberlain.⁹⁴ So, it is clear that executors were still managing testamentary guardianships without involving the city bureaucracy even into the late 1520s.

7.5 1536: THE BIRTH OF AN INSTITUTION

The decisive point of change (and, if there is one, the starting point of the court of orphans as an institution) was to be Henry VIII's break with Rome. The comprehensive civic court of orphans, as it was operating in the early modern period, was initiated by the mayor and aldermen's decree of 14 February 1536. Fourteen months before, Henry VIII's Act of Supremacy had been passed in parliament, making the king the head of the church in

⁹⁴ This survives in the Surrey county archives as manuscript SHC LM-1660-13. I am indebted to Richard Asquith whose research for his upcoming doctoral thesis, 'Piety and Trust: Testators and Executors in Pre-Reformation London' has revealed this information from executors' accounts.

England.⁹⁵ This meant that the power of the pope ceased over all ecclesiastical matters in the country, and was transferred instead, to the king. Whether the city government was concerned with a potential threat to their jurisdiction over London wardships or whether the mayor and aldermen (who had been inching towards full control administratively for some decades) simply seized an opportunity, will never be known.⁹⁶ Nonetheless, they acted decisively. In 1535, Letter Book P refers to several ordinances for orphan matters, citing their cause thus:

'By Reason of occupying of other mennys stockes [i.e., through the process of orphanage] merchauntes and other haue arrysen to grete Rychesse to the grete honour and comon welth of this citie.'⁹⁷

The mayor and aldermen were preparing the ground to take control from the ecclesiastical court system, now in the domain of the crown. In December 1535, a year after the Act of Supremacy, the common council passed their own ruling affirming the right of the court of aldermen to determine London's orphan affairs. Two months later, the mayor and aldermen made a declaration that brought the whole management of wardships *solely* under their direction for the first time. On 14 February 1536, it was decreed that

'From henceforth, all orphanages of this city shall be always ordered by this court and not by the executors or administrators of the freeman so deceased.'⁹⁸

⁹⁵ 26. Henry VIII c.1. *Statutes of the Realm*, ed. Raithby, iii. 492

⁹⁶ Henry VIII established a court of wards in 1540 whose procedures are similar to those of the court of orphans in London. Perhaps Henry allowed London to formalise its court in order to copy it. 32. Henry VIII c.46. *Statutes of the Realm*, ed. Raithby, III, 802–7; W.C. Richardson, *Tudor Chamber Administration 1485–1547* (Baton Rouge Louisiana, 1952), 493

⁹⁷ COL/AD/01/015 (Letter Book P), f. 80v. See also ff. 77r, 79r

⁹⁸ COL/AD/01/015 (Letter Book P), ff. 79r, 80v

In other words, testamentary guardianship and the management of wardships by executors (which, with the decline of secular probate in the husting court, once again operated through the jurisdiction of ecclesiastical courts) was finally subsumed into the civic administration of orphan matters in the city of London. This was a significant moment. Prior to the Reformation, the government of London had chosen only ever to control that part of wardship outside a testamentary guardianship that required their intervention. The city procedures for the underage children of freemen did not routinely cover *everyone* until this decree was made. The purely civic court of orphans was a post-Reformation institution.⁹⁹

That said, even after this major juncture, the court of orphans was not a distinct entity. Rather the same people who administered merchant law and pleas of land and the enrolment of writs and city apprenticeships right across the administrative spectrum acted as an orphans' court whenever any of them dealt with orphan matters. Even when the first contemporary use of the term 'The Court of Orphans' was recorded in 1529, it was in reference to a part of the guildhall where meetings to discuss wardship affairs took place, rather than a formal body of officials.¹⁰⁰ Orphan affairs infiltrated all aspects of city government; a collective responsibility dealt with as part of an administrative whole. The orphans' court had no single officer solely responsible for its affairs; all involved – and there were many – had duties elsewhere. But from 1536 onwards, it was a purely civic entity and under tightening rules and regulations, had moved determinedly away from the obscurity of ancient rights and customs.

⁹⁹ London attempted at the same time to strengthen the court's statutory authority. On 14 July, 1536, a bill from the House of Commons was presented to the Lords concerning this, but was rejected the next day. 'House of Lords Journal Volume 1: 14 July 1536', in *Journal of the House of Lords: Volume 1, 1509–1577* (London, 1767-1830), 98, 99

¹⁰⁰ Carlton, 36

7.6 CONCLUSION

This was a century of change: one where the more traditional aspects of a common law wardship, governed by oaths of fealty and the semi-feudal seigneurial rights of land and property, evolved into a more practical business enterprise, governed by financial bonds of indemnity against capital inheritances and administered by a sleek bureaucratic machinery. That is to say, while the ‘ancient custom and rights’ of the city’s wardship held fast and continued to be defended against outside interference, the manner in which that right was managed increasingly became one of economically optimised civic benefit. The city had finally come to grips with the advantages that the rights of wardship could offer. But there remained, beneath the surface, two constants: the city’s determination to protect the legal transfer of wealth (property or capital) from its citizens to their heirs, and the testamentary guardianship of Londoners which continued to place children with mothers, close family and neighbours, keeping them as well as their inheritances protected from harm.

8. WOMEN AND WARDSHIP 1258-1498

Chapters 2-7 of this thesis have explored the ‘medieval foundations’ of Charles Carlton’s early modern court of orphans. Telling the story of the evolution of this civic institution *as* a civic institution has meant presenting the narrative largely from the perspective of the city: through the eyes of men. And yet women played a substantial part in London wardship.

What has emerged from glimpses into the case studies of families and neighbourhoods and people is that, beneath the protection of inheritances and evolution of procedure, there lies evidence for a strong network of orphan care within less formal structures than that of the prescribed civic framework. It has become clear that, in the medieval period, a large proportion (almost certainly a majority) of orphan cases were not recorded in the civic court records and were undoubtedly managed outside any form of formal civic acknowledgement. Orphans, nonetheless, still appear to have been adequately cared for and protected within families, households and neighbourhoods.

Barbara Hanawalt has written extensively on London women and, in a recent study, argued that London’s unique inheritance and dower customs enabled wealth to be disseminated horizontally rather than vertically, thereby developing a circulation of wealth amongst a social group rather than passing along the patriarchal primogeniture lines found in feudal structures.¹ This is an argument that resonates within a study of urban wardship practice. A

¹ Hanawalt, *Wealth of Widows*. This built on her previous work, B. Hanawalt, ‘Remarriage as an Option’ in *Wife and Widow*, ed. Sheridan Walker, 141–64. Another of Hanawalt’s conclusions, that London widows held the potential to progress both economically and socially with astute use of the thriving urban networks, has been the subject of discussion amongst historians. See D. Keene, ‘Tanners’ Widows’ in *Medieval London Widows*, ed. Barron and Sutton, 6–7; C. M. Barron, ‘The Widow’s World’ in *Medieval London Widows*, ed. Barron and Sutton, xxvii–xxviii; Sutton, A., ‘Serious Money: The Benefits of Marriage in London, 1400–1499’ in Sutton, *Wives and Widows*, 116–135

deeper examination of the less formal facets of London wardship supports Hanawalt's findings. Alongside their men, women played a significant role in guardianship, providing a strong current of consistent and effective, if comparatively invisible, care. This can be substantiated through several observations: that medieval law (and London's legal customs) favoured mothers as guardians; that the majority of guardians in existence in the medieval period in London were testamentary appointed women (usually mothers); that almost half the guardians recorded in the civic records were women (mothers or mothers who had remarried); that drilling down into supplementary evidence to what was going on beneath the civic transactions, illustrates that women were often the stalwarts of even civic appointed guardianships, stepping into the breach when plague ravaged neighbourhoods or their men died or were otherwise incapacitated; and, that guardianship for women in medieval London could, in itself, present opportunity.

8.1 WOMEN AND WARDSHIP IN LAW AND CUSTOM

The law of England, and the custom of London, favoured women as guardians in a wardship. The common law, governing devised legacies in wills, preferred a guardian to be the 'next of kin to whom the inheritance could not descend'. For a patrimonial inheritance, land and goods devised by a father to a child, this made the mother the natural choice of guardian. As was established in Chapter 2, canon law, influenced by civil law principles and governing the inheritance of moveable goods, favoured a testamentary guardian first, a next of kin second and, only in the absence of the first two, one chosen by an authority. Given the overwhelming preference shown by male testators to name their widows as testamentary guardians, it follows that most guardians under canon law process were also women.

Under law and custom, a widow, receiving some form of estate from her husband, was financially and domestically provided for and well placed to care for young children. Civilian

law influences also gave London the long-standing custom of *legitim*, the principle of dividing a deceased citizen's moveable estate into thirds, one third of which must go to his widow, and another third to be divided between his children. In addition to her share of moveable goods, *legitim* dictated that the dower owed to a widow also consisted of her free-bench (her right to remain in the house she and her husband had lived in up to his death). While this was commonly limited to 40 days, in London the widow held the right to remain in the marital home for life, so long as she remained unmarried. In addition to this was the common law right of dower, under which she was entitled to a third (or half if there were no children) of her husband's estate for life. She could alienate it, but not devise it and he could not devise it to her, but she could enjoy the income from it for life.² This potential for financial stability with the ability of the widow and children to remain in the family home, must have been a deciding factor for many testamentary, and civic, guardianship appointments and ratifications.

If these law practices were respected, even in principle, then it follows that the widow of a freeman of London would logically be the default choice of guardian: by his testamentary appointment or by the city's choice as a child's 'next of kin to whom the inheritance could not descend' (for common law legacies) or the principle of *legitima* (for a one third-portion of the moveable estate). Bearing in mind these benefits, taking on a guardianship in widowhood, without the need to remarry, might have been an attractive prospect for many women.

² There are several thirteenth-century instances of quitclaims by widows at the point of a will's enrolment: women coming into the husting court to declare only a life interest in a property devised to them by a late husband. In 1397, the mayor's court records detail a statement to the effect that no citizen may devise more than a life interest in his property to his widow. *CWCH* i. 87 (1289), 95 (1290), 103, (1291), 125 (1296). *CPMR 1381-1412*, 6-7

8.2 WOMEN, WARDSHIP AND TESTAMENTARY EVIDENCE

Considering the civic evidence together with testamentary material has cast a very different light on orphan matters during the period of this study. Chapters 3-6 have established that testamentary appointments formed the starting point of the majority of known civic guardianships in the later medieval period. Women were a significant, and a consistent, part of that process. The breakdown of the relationship of guardians to minors in 895 known testamentary appointments from the 3,647 husting wills examined is presented in Figure 8.1. Early fourteenth-century wills tended not to name a guardian, perhaps reflecting a practice of proving testaments in ecclesiastical courts where canon law might have favoured mothers as *testamentia* and *legitima* guardians.³ However, where a mother survived and underaged children are known, it is very likely that she took on their guardianship. Where it has been possible to correlate an assumed appointment of a mother in these early wills with a later civic entry, that assumption has been validated. This analysis consequently demonstrates that, where known, the preference of testators, when appointing a guardian at the point of drawing up a will, was overwhelmingly for mothers or other female family members.

This data combines all known testamentary appointments, including those which later showed up in the civic records. However, a good majority of that which is shown in Figure 8.1 never did result in any formal recognition in the Letter Books. A significant proportion of guardians at large in London at any given time over the period of this study were women who may have been named in a will or testament, but who never had cause to appear before the court of aldermen for reasons of wardship; or at least were never recorded as having

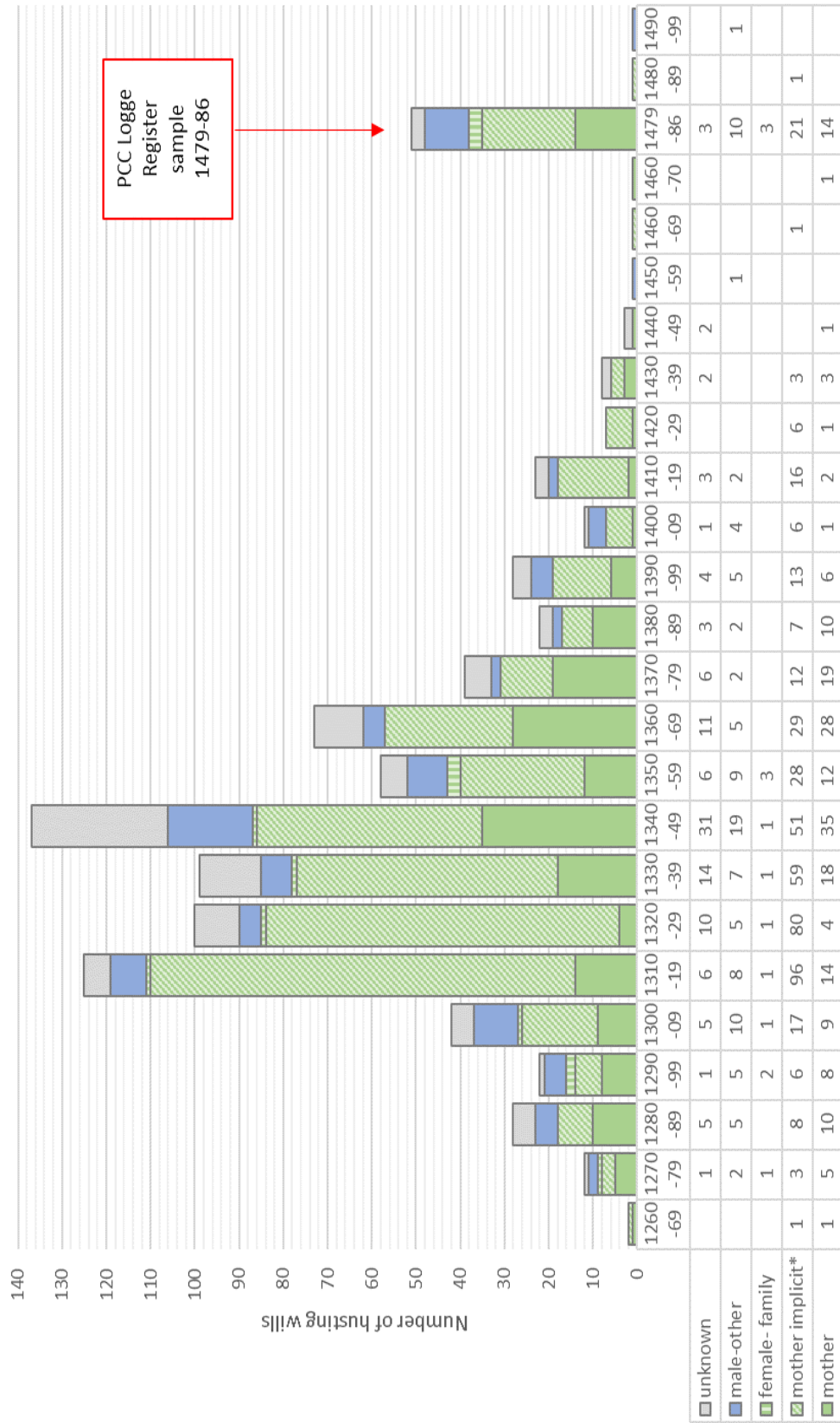
³ This remains a theory: London has no ecclesiastical court wills surviving from the early fourteenth century to provide evidence for this.

done so. By the later fifteenth century, those guardianships that can be analysed in the PCC *Logge* Register sample of wills suggest the guardianship of mothers for the person of the child while, in the civic records, the inheritance was logged and monitored under the recognisance-and-bond system. The conclusion is that large numbers of female guardianships have probably hitherto never been counted in any assessment of the civic record of orphan matters.

If Figure 8.1 demonstrates the consistency of women in testamentary guardianship over time, then Table 8.1 shows the proportions of women holding testamentary guardianships as percentages of the whole.

In both sample sets, the sources show that the majority of testamentary guardians appointed in these wills (78% of the combined known and implicit categories 1&2 in the husting wills and 71% of the same in the *Logge* register) never appeared in the Letter Books, and that, of those appointed testamentary guardians, there was a heavy inclination towards mothers. Even erring on the side of caution and taking only the 387 known testamentary guardians in category 1, the tables show that over half of them were, or very probably were, mothers (57% in the husting sample and 65% in the *Logge* Register sample) who had no further cause to come to the attention of the civic authorities.

FIGURE 8-1: WOMEN V MEN AS APPOINTED GUARDIANS IN HUSTING COURT WILLS IN 895 TESTAMENTARY APPOINTMENTS. (DATA PRESENTED BY FAMILY)



SOURCES: *CWCH* i., ii.; *PCC Logge* i., ii.. *Mother-implicit = mother alive and no other guardian named.

TABLE 8.1 WOMEN IN TESTAMENTARY GUARDIANSHIP:

Breakdown of Husting Wills Sample

1. Calendared Husting Wills 1258-1498	No.	%
Total Wills in Calendar	3,647	100
Total Wills with known children	2,166	59
Total Wills with known minors	895	24
2. Of 895 wills with minors	No.	%
1) Testamentary appointment only - known	387	43
2) Testamentary appointment only - implied*	315	35
3) Testamentary appointment with immediate civic confirmation*	57	6
4) Testamentary appointment with later civic record	107	12
5) Testamentary appointment with immediate and later civic record	29	3
Totals:	895	100
* Of these implied guardianships, 302 are from the 1258-1349 period when wills were necessarily short because of plague or were simply a will with a testament enrolled elsewhere. All have known underage children and 265 of the 302 have known surviving widows who were the likely guardians. A further 37 have implied surviving widows. . .		
** within three months		

3. Of the 387 Testamentary appointments only:	No.	%
Mothers named as guardian	141	36
Mothers implicit (widow alive and no other guardian named)	79	20
Probable no. of non-civic 'mother' Testamentary Guardians	220	57
Other family named as guardian	46	12
Will states guardian appointed but not named*	42	11
Named guardian - no relationship recorded	18	5
Executor named as guardian	17	4
Other named guardian (incl. rectors, city officials, prioresses etc.)	22	6
unknown	31	8
Totals:	387	100
* 80% of these are quickly-written Black Death Wills		

SOURCES: *CWCH* i, ii; *PCC Logge* i, ii.

Breakdown of Logge Register PCC Sample

4. PCC Wills of the Logge Register 1479-1486	No.	%
Total Wills in Calendar	104	100
Total Wills with known children	69	66
Total Wills with known minors	51	49
5. Of 51 wills with minors	No.	%
1) Testamentary appointment only - known	32	63
2) Testamentary appointment only - implied*	4	8
3) Testamentary appointment with immediate civic confirmation	1	2
4) Testamentary appointment with later civic record	14	27
5) Testamentary appointment with immediate and later civic record	0	0
Totals:	51	100
** within three months		

6. Of the 32 Testamentary appointments only:	No.	%
Mothers named as guardian	10	31
Mothers implicit (widow alive and no other guardian named)	11	34
Probable no. of non-civic 'mother' Testamentary Guardians	21	65
Other family named as guardian	7	22
Will states guardian appointed but not named	0	
Named guardian - no relationship recorded	0	
Executor named as guardian	1	3
Other named guardian (incl. rectors, city officials, prioresses etc)	0	
unknown	3	10
Totals:	32	100

The nature of this study has relied on the examination of wills containing land/property transfer and has not had the capacity to examine the many thousands of ecclesiastical court testaments that survive for London from the late fourteenth century. However, given the balance of the *Logge* Register sample, the analysis above and the points of law leading to the favouring of testamentary guardians in the medieval city, it is likely that ecclesiastical testamentary evidence would reveal an even higher proportion of female *testamentia* guardians in existence in London at any given time over the later medieval period. The percentage of London widows with children who chose to remarry was perhaps not as high as those studies sourcing data from the Letter Books alone might suggest.⁴

In the absence of full statistical representation, what can be discerned from this analysis, is strong evidence that the favouring of women in the rule of law and custom in London worked out in practice: the city did favour its women as default guardians for fatherless children and women were consistently an influential, if understated, part of London's wardship practice.⁵

8.3 WOMEN, WARDSHIP AND THE CIVIC RECORDS

By comparison with evidence from wills, the female role in wardship in the civic records has been the subject of, or included in, a number of studies.⁶ Most notably for this thesis, in 2011 Caroline Barron and Claire Martin published a study of orphans in Letter Books G and H

⁴ B. Hanawalt, 'Remarriage as an Option' in *Wife and Widow*, ed. Sheridan Walker, 151

⁵ Statistical evidence as a comparison across the civic and testamentary sources is difficult to present: wills by their very nature can only be categorised at the 'family' level and will only ever appear as a single entity, whereas civic records might be at 'family', 'orphan' or 'transaction' level with numerous children having multiple entries.

⁶ Barron, 'The Child in Medieval London'; Clarke, 'City Orphans and Custody Laws'; Hanawalt, *Growing Up in Medieval London*; Maddern, 'Between Households'; Megson, 'Life Expectations'; Tarbin, 'Fatherless Children'

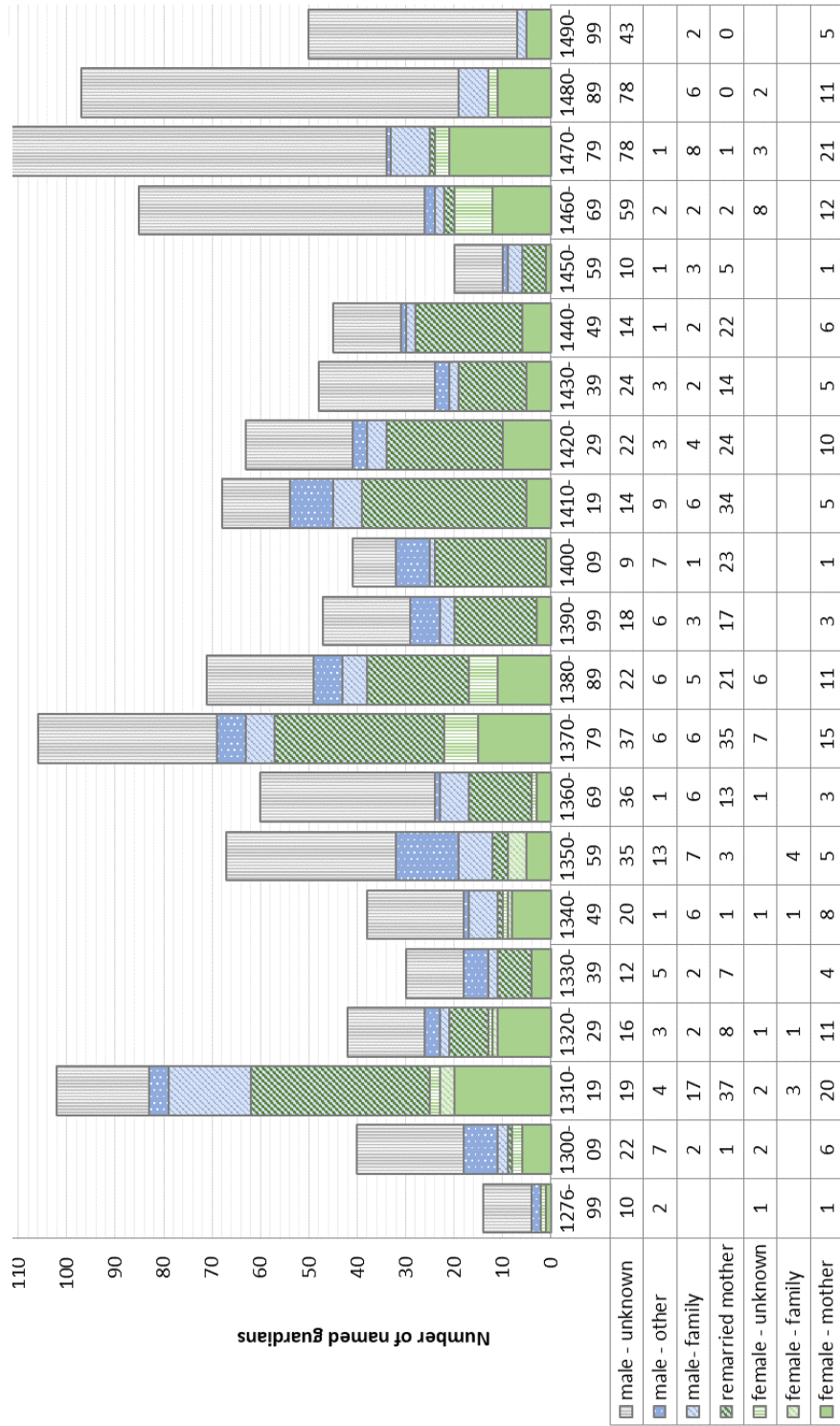
which presented several new arguments: that the preference for male guardians as recorded in the Letter Books is misleading; that mothers were in fact the default testamentary guardians for fatherless children and were often only recorded in the city records when they remarried, usually some years after the father had died; and that the city only stepped in to appoint and adjudicate when it needed to do so.⁷ In other words, an analysis of wardship based on the civic records alone provides a distorted view.

The findings of this study, extending a century backwards and forwards from Barron and Martin's sample, illustrate that their conclusions hold true throughout the medieval period. Firstly: the argument that the numbers of men named in civic wardship records present a misleading picture of male-dominated guardianships. Figure 8.2 shows the full breakdown of the female v. male relationship of guardians to orphans as recorded in the Letter Books over time. Until the 1460s, well over half of these civic-recorded guardians have some known relation to the child (the 'male-other' category includes male executors, masters of apprentices, civic officers and religious). If the categorisation 'stepfathers' is reworded to 're-married mothers' to unveil some of the invisibility of women in the eyes of the civic record, then the ratio of women to men becomes, considerably more balanced.

⁷ Barron and Martin, 'Mothers and Orphans'

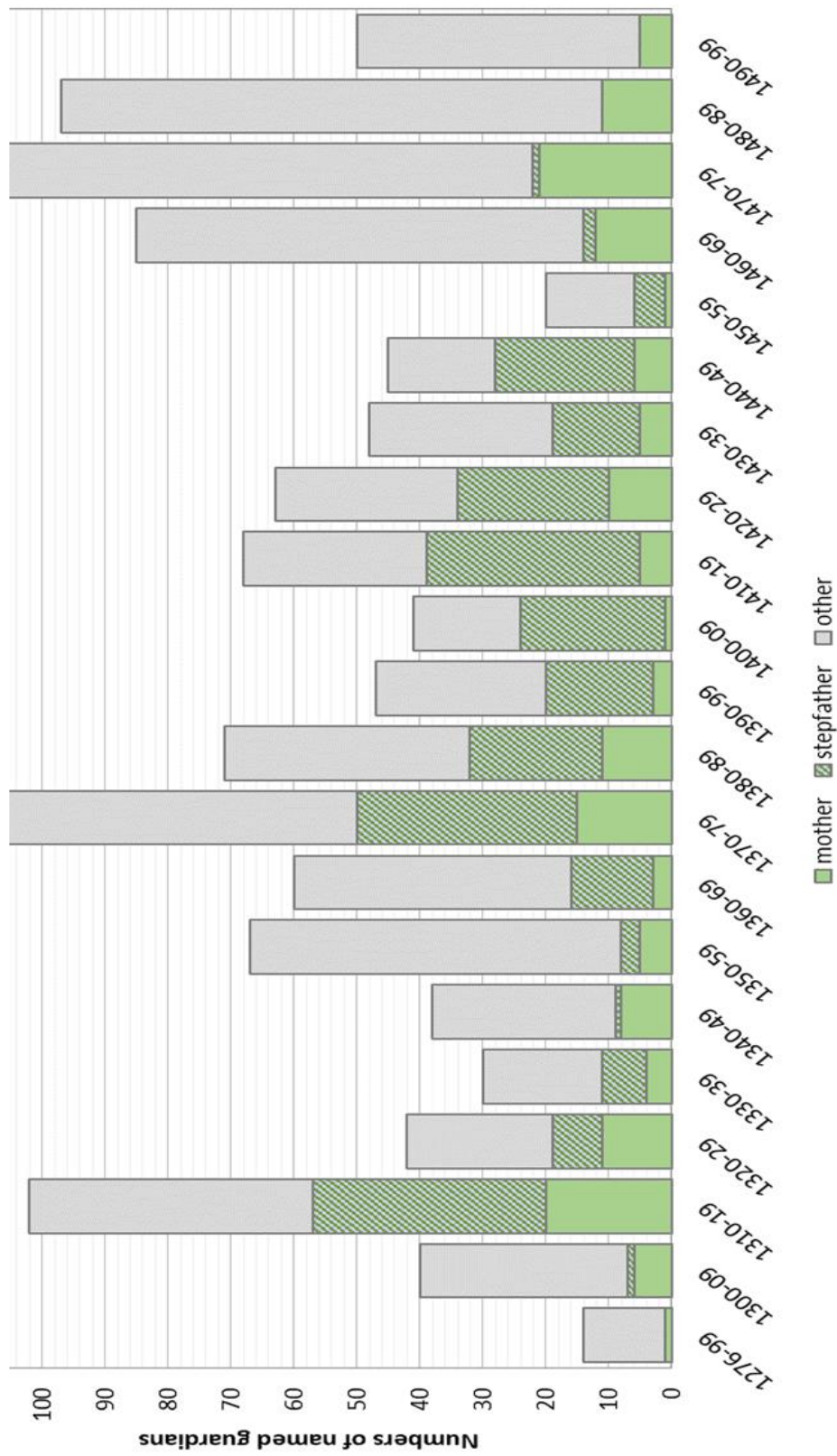
8: Women and Wardship

FIGURE 8-2: BREAKDOWN OF GUARDIAN-CHILD RELATIONSHIPS OVER TIME IN THE CIVIC RECORDS



Sources: CLBA-L; CEMCR; CPMR i-vi; Jor., i-iv. NOTE: The data in this table is presented by count of Guardian.

FIGURE 8-3: MOTHERS AND RE-MARRIED MOTHERS AS A PROPORTION OF NAMED GUARDIANS IN THE CIVIC RECORDS. (DATA PRESENTED BY GUARDIAN)¹



Sources: CLBA-L; CEMCR; CPMR i-vi; Jor., i-iv

Figure 8.3 presents the same data but with only the categories of mother and stepfather, or remarried mothers, showing. This shows more clearly that, across the decades, perhaps one third to one half of all guardians recorded in the Letter Books were mothers, or remarried mothers with this recorded distinction being at its most prominent in the period 1370–1449.⁸ After 1460, the Letter Books were recording only recognizances and bonds, but it is interesting to note that there was still a percentage of mothers who were taking on the bond for a patrimony.⁹

Barron and Martin also argued that, in their sample of the years 1352–98, it was the case for many orphans that a civic record only existed if their mother remarried and the new stepfather had cause to come into court to bring sureties for the inheritance. A full examination of those wills in the husting court and PCC samples that have later civic entries provides an opportunity to test this theory over a much longer period of time.

In line with the analysis of testamentary guardianships above, the first notable feature of the data is how few identifiable testamentary guardians actually do have corresponding civic entries. Adding together the numbers from categories 3, 4 & 5 in Tables 8.1 [2] and 8.1 [5] shows that, of the 946 wills in the combined husting and PCC samples with identifiable underage children, spanning the years 1258–1498, only 208 (22%) of those families are visible in the civic records. This presents a significant challenge in the hitherto patriarchal view of guardianship in medieval London. Furthermore, in line with the evidence for women as a favoured choice of guardian, the reasons why these 208 families do appear in the civic

⁸ This high occurrence of stepfathers presents a contrast to rural comparisons where instances of stepfathers of guardians were very low. While Muller found 40% of guardians were mothers or stepmothers, she places stepfathers in a ‘rare’ category. Muller, *Childhood*, 124. In challenging the assumptions of patriarchal guardianship, it supports the findings in medieval Ghent put forward by Ellen Kittal. Kittal, ‘Guardianship’, 897–930

⁹ This is discussed further below.

8: Women and Wardship

registers are largely consistent with changing circumstances relating to a mother-guardian: 74.5% of those civic entries that originated as testamentary appointments in the husting and PCC will samples, relate to a change instigated by something happening to the mother: she brings sureties into court or, in the late fifteenth century, enters into a bond for the children's inheritance and the appointment is confirmed; she receives payments from executors, she remarries or she dies. This implies that the city was content to let orphaned children remain with their mothers, only bringing cases into court when a change of circumstance occurred in the guardianship and necessitated its intervention.¹⁰

TABLE 8.2: BREAKDOWN OF REASONS FOR LATER CIVIC ENTRIES FOLLOWING TESTAMENTARY APPOINTMENTS 1258–1498:

Testamentary Appointments with a Civic Entry: Category at first recording	Total
Property dispute	5
Death of orphan	5
Orphan came of age	7
Transfer of guardian	11
Bond for patrimony	1
Marriage of orphan	10
Intervention into guardianship	14
Civic appointment of guardian after mother's death	28
Mother's remarriage	37
Bond for patrimony - mother remains guardian	10
Confirmation of will/payment from executors	21
Immediate confirmation of appointment*	59
Total number of Testamentary Appointments with a Civic Entry <i>Husting Wills, 1258–98</i> <i>PCC Wills 1478–86</i>	208

*within 3 months of will being proved/enrolled

Sources: *CLBA-L*; *CEMCR*; *CPMR* i-vi; *Jor.*, i-iv, *CWCH* i., ii.; *PCC Logge* i., ii.

¹⁰ This also provides some context to Hanawalt's assertion that the figure of 57% of widows with orphans in Letter Books A–L being already remarried by the time of appearance before the mayor and aldermen, suggests a high instance of remarriage amongst that group. Taking testamentary mother guardians into account suggests that that percentage of widows with underage children remarrying may have been significantly lower. Hanawalt, 'Remarriage as an Option', in *Wife and Widow*, ed. Sheridan Walker, 150–1

In fact, the mathematical average for an appearance in court following an earlier testamentary appointment, across all the cases in the sample of both sets of wills, is 3.75 years. The shortest timespan was the six days after enrolling her husband's will on 11 June 1414 that it took Anna Stapleford to appear again in the court of aldermen with her new husband and have him confirmed as the guardian of her three sons and her fifteen-week-old daughter.¹¹ The longest is seventeen years: in 1289, William Callere, mercer, left his property in the hands of his wife, Matilda for life for the maintenance of herself and their children 'as long as she remained unmarried and chaste'. Matilda's death, or less likely, her remarriage, went unrecorded, but in 1308, her nineteen-year-old daughter, Lucy came to court with her husband, Laurence le Botoner and made formal record of an acquittance to her uncle, Robert le Callere for 'money due to her under her father's will and clothing found her during the time that Robert was her guardian'.¹²

Although the average lapse of time between the first recording of a testamentary guardianship and a later civic entry is 3.75 years, the most popular periods are one year or less (fifteen instances); three years (twelve instances) and seven years (twelve instances). Within the one year or less category, the civic entries involve a combination of remarriages and confirmations of payments from executors to testamentary guardians. The three-year and the seven-year lapses are almost all remarriages (between three and five years being the average time for re-marriages) or guardian re-appointments. Some children remained with mothers for longer before a change in circumstances altered their guardianship. John Deumar's very brief *ultima voluntas*, enrolled in the husting court in 1279, does not explicitly name his wife Christina as the guardian of their children. But eleven years later, she was still alive and had Robert, her son, still in her care: she gave her consent for William

¹¹ John Stapleford's will is dated 16 May 1413. *CWCH* ii. 405; *CLBI*, 126, 129

¹² *CWCH* i. 86; *CLBC*, 169

de Laufare, a financial guardian appointed by the city, to hold the sum of £20 in trust for him. A year later the guardianship had transferred to Robert de Sutton, who may have married Christina: the two of them were engaged in a bid to get young Robert's money returned.¹³ William de Northhampton was less than two years old when his father died in 1317. In 1329, at the age of fourteen, his guardianship was given to William de Walpolby. In this case, either his mother had died and he was in need of a guardian to monitor his inheritance, or possibly, given his age, he had been put to apprenticeship with Walpolby and the inheritance was transferred to his new master.¹⁴

These long periods of guardianship without civic recognition suggest that keeping children, especially young children, with a mother was a priority and that, confirmation of testamentary appointments aside (where they were recorded in civic registers) testamentary guardianships might run for many years before any circumstance brought the guardian or child before the court of aldermen. The testamentary and the civic evidence when examined in detail demonstrates one critical fact: that during two and half centuries of changing and evolving civic attitudes and recorded practice, London women continued to play a large, consistent, and hitherto unacknowledged, role as guardians.

8.4 STEPPING INTO THE BREACH

The role of women in wardship, however, was not confined to maternal guardianship.

Particularly in the fourteenth century, a time of high mortality, women are to be found stepping into the gap left by deceased male guardians or sureties and fighting for, or protecting the rights of, the city's orphaned children. Agnes Frowyk, appointed, or

¹³ *CWCH* i. 40; *CLBA*, 122, 177

¹⁴ *CWCH* i. 269; *CLBE*, 235

confirmed, by the mayor and aldermen as guardian, by right of common law, to her son Henry in 1300, nonetheless fought, and won, a protracted case in the king's court six years later to have Henry and his inheritance returned to her care after he was abducted and forced to marry against her wishes.¹⁵ In 1377, Juliana, widow of Henry de Padyngtone married Robert Louthe. She had held the guardianship of Padyngton's son, John, for two years, but was evidently not his mother: on her re-marriage, Henry Padyngtone's executor, the cordwainer William Whetleye came before the court of alderman to request that the patrimony of five-year-old John be granted to him in accordance with the terms of Padyngtone's will. At the same time, Johanna, widow of John Mitford, draper, appeared and demanded custody of the boy, as his grandmother and next of kin to whom no advantage would accrue on his death. Her petition was granted upon her undertaking to keep the orphan in food at her own expense, but Whetleye was appointed guardian of the inheritance and instructed to maintain young John in clothing and board. The boy remained in his grandmother's care until he came of age in 1393.¹⁶

Women could even step in as full financial guardians where needed. The 40 shillings devised to eight-year-old John Staunford by John Cornwaille had been in the legal guardianship of the boy's father, John senior. But, in 1379, his mother, Johanna 'Frutestere' was granted custody of the inheritance 'his father having been absent abroad a long season'. Although she is recorded as John senior's wife, Johanna's noted surname suggests that she was operating as an independent trader in her husband's absence and bringing their son up alone.¹⁷ At the other end of the financial spectrum, Agnes, the widow of Adam Fraunceys,

¹⁵ *Year Book of Edward II*, (Selden Society Year Book Series, 11, 1904), ii. 157–63

¹⁶ *CWCH* ii. 181; *CLBH*, 82, 308

¹⁷ *CLBH*, 138. Young John came of age in 1396, by which time, Johanna and one of her sureties were both dead. The 40s. could not be raised from either of their estates, so was instead levied on the tenements of the second surety, Nicholas Rote, and given over to John.

mercator, alderman, mayor and MP seems to have taken on the wardship of Paul, son of Sir Thomas Salesbury, in her own right. In 1381 she rendered a detailed account for the four years of her guardianship including property maintenance costs and allowances of £50 3s. 9d. for clothes, books, horses and silver girdles etc., for Paul and his household, and 5s. a week for the board (*mensa*) of the same, amounting to £102 3s. 9d.¹⁸

Even religious ‘mothers’ were able to take over patrimonies as the formal guardians of underage children entering the religious life. Isabella Westmelne either chose, or was persuaded, to become a nun while still under the age of fourteen. In 1363, the mayor and aldermen approved the action of her erstwhile financial guardian, her father’s executor, who explained that he had paid Dame Ellen Gosham, the Prioress of Haliwell, the £46. 13s. 4d. of Isabella’s inheritance on the understanding that Isabella should be free to leave when she was fourteen, and, in that case, the Prioress would return the money to her, less reasonable expenses.¹⁹ Similarly, when Matilda Toky chose to enter the priory of Kilburn at the age of twelve in 1393, the mayor and aldermen listened to the arguments put forth by her friends, agreed to allow her to ‘assume the religious garb’ and instructed the chamberlain to place her £31 5s. 4d. into the hands of the Prioress for the girl’s use during minority.²⁰ Nine years later, Lady Emma St Omer, the prioress at the time, officially received the inheritance on behalf of the priory. It might be assumed that the same had happened for Alice Critchfield: in 1462, at the age of fifteen and a half, she came before the court with Johanna Sevenoak, Prioress of Haliwell and the latter acknowledged satisfaction for the girl’s inheritance.²¹

¹⁸ COL/AD/01/008 (Letter Book H), f. 136r. Adam Fraunceys had died in 1375, two years before Agnes had the wardship. Sir Paul Salesbury died in 1400. *CWCH* ii. 347

¹⁹ This assumes that an account would be rendered by the Prioress. *CLBG*, 152

²⁰ COL/AD/01/008 (Letter Book H), f. 288r. This case is also used as a precedent by John Carpenter in *Liber Albus*. *Liber Albus*, ed. Riley, 527. See also the translation of the case in *Memorials*, ed. Riley, 535

²¹ *CLBL*, 8

While these are all instances recorded in the city's Letter Books, studies using alternative sources might yield further evidence of the role women played in the care of orphaned children at a local community level. The case study of the interconnectivity of guardianship activity in the parish of St Christopher le Stokkes in Chapter 5 has been pieced together using supplementary sources and is suggestive of what a more complete investigation might unearth about the underlying activity of women in wardship. It was Agnes Hore, widow and executrix of Thomas Hore, who, in the aftermath of his death, managed his ward's patrimony and handed it back to Juliana Laurence upon her marriage.²² The widows of Richard Claverynge and Walter Foster did the same for Juliana's brother Guy when he came of age in 1382. Richard Claverynge had been dead for seven years by this time; his widow Denise had been appointed guardian of their son, Thomas and his estate, and oversaw the return of Guy's inheritance from her husband's estate.²³ Johanna Gille of the same parish not only took on the guardianship of her daughter and that of her deceased husband's ward, Richard Robynet, but was also responsible for managing and then paying back the inheritance of Denise Cauntebrigge upon her marriage to Thomas Cavendisshe in 1381.²⁴ It is only through the evidence of wills and inquisitions post mortem that the relationship between Denise Cauntebrigge and her elder Laurence half-siblings becomes apparent and the fact that their mother, Sibil, was alive and maintained responsibility for them for at least a part of their childhood.²⁵

²² *CLBG*, 212

²³ Her appointment as guardian in 1375 was underwritten by family and neighbourhood sureties, suggesting that she was supported by them in managing her son, Thomas's estate alone until she remarried, sometime before 1382. *CLBH*, 15.

²⁴ John Gille had been a surety to Denise's guardian Robert de Erethe, who must have pre-deceased him. Gill died in 1380 and Johanna managed the patrimony for at least a year until Denise's marriage. *CLBH*, 160

²⁵ See Chapter 5.

All this is not to say that women, or indeed mothers, were always the best guardians for orphaned children. For some, the weight of handling their children's estates might have been all too much, or new husbands may have caused ructions that the city was not prepared to tolerate. Sibil, the mother of the three Laurence children of St Christopher's parish and of Denise Cauntebrigge, by her second husband, was found to have mishandled their affairs in a case brought by the common sergeant in 1366.²⁶ In his will, enrolled in 1374, Eustace de Glastone was quite specific about the guardians appointed for his children. James and Matilda were given into the care of his widow, Margaret, and nothing further is heard of them. Alice, his daughter, who was little more than an infant, was to be placed in the care of Katherine Nortone and her husband, Richard. John, presumably older (he came of age in 1382), was to be in the guardianship of his uncle, John de Glastone.²⁷ In 1377, however, the court of aldermen approved Katherine Nortone as the guardian of Alice *and* John. She was now acting without a living husband, but by 1380 was struggling. In July of that year, she asked to be discharged from the guardianship of John because the money received was insufficient for his maintenance.²⁸ She was asked to render account and found to be in arrears to the sum of £64 19s. which she was bound to pay into the chamber. Even in 1388, after Katherine had died and Alice came to court to claim her patrimony upon marriage, it was an attorney of one of Katherine's sureties who finally delivered the money.

²⁶ *CPMR*, 1364–81, 64. Details of the case are discussed in Chapter 5.

²⁷ Alice was married fourteen years after her father's will was proved in 1388. *CWCH* ii. 165; *CLBH*, 71

²⁸ The entry makes no mention of her husband, Richard, and specifically names her alone as the children's guardian.

8.5 WOMEN, WARDSHIP AND OPPORTUNITY

For some women then, the opportunity at widowhood to stand alone and in control of two-thirds of a husband's movable estate and any real estate legacy, may have been simply too daunting. Remarriage was a viable option in an urban environment and widows with children were attractive to upcoming young men seeking to make their way in the city.²⁹ But what of those women who chose not to remarry?

Women in medieval London had advantages as the widow of a citizen with even modest means, but to those direct rights of dower (a house for life and a one-third of the husband's moveable estate) could be added the benefits of a wardship. A guardian, any guardian, even a mother, was entitled to use the capital within any patrimony and take a share of the profits arising from it, so long as the inheritance was accounted for at the end of the wardship. Incomes from property in the first half of the period or the combined real and capital estates of wealthy merchants in the fifteenth century could amount to a small fortune and set a woman in business for life. Some clearly relished this path.

Rose de Coventre, widow of the mercer, vintner and sheriff, Henry de Coventre, is one such woman. Henry had purchased the Great Seld in the mercery of the city in 1260.³⁰ Upon his death in 1281, it was devised as a life interest to his indomitable widow, Dame Rose who managed it, and the exchange of property within it, for another thirty-seven years with such aplomb and personal attention that for decades afterwards the seld was referred to by her name in city wills and property transactions. It is unknown for certain if any of Henry and Rose's children were underage at the time of Henry's death, but her son Stephen pre-

²⁹ The social and economic motives for marrying widows with orphans are discussed in Chapter 9.

³⁰ A seld was a large, sometimes partially enclosed trading area in which shops, stalls or merely cupboards and chests could be leased or rented to sell goods. That of the Coventre family is discussed further in Chapter 9.

deceased her and devised guardianship of his two sons to Rose as long as she remained alive. She continued to manage the Coventre portfolio of property and the shares in her grandsons' estates until her death in 1318, when Edmund, the eldest, became the beneficiary of the Great Seld.³¹

In 1328, Mathilda, widow of Gregory de Fulham, was confirmed as the guardian of their two children, Thomas and Nichola and granted custody of their inheritance of a house and shops in the parish of St Margaret Bridge Street. Thomas was not two years old at the time and yet grew up to enter the trade of fishmonger. Mathilda never married again, and it is probable that she took on the shops in Bridgestreet on behalf of her son, managing them throughout his minority and passing them on to him upon his coming of age. Thomas was able to devise them all to his wife as an ongoing business concern upon his death in 1348.³²

Women as sole traders or businesswomen were not, however, always successful or enjoyed the lifestyle. Dame Johanna Large, widow of the mercer Robert Large, seemed confident enough in her ability to manage her sons' portions of their father's estate and entered into a bond, with four underwriters, to pay £1,000 as security for each of their guardianships in 1443.³³ She had become a vowess after Large's death and took an oath of chastity with the

³¹ Keene and Harding, *Gazetteer*, 691–704. For references to the seld in Rose's name, see the wills of Henry Burel, 1325 and William de Causton, 1355. *CWCH* i. 313, 680. See also, *CLBC*, 87; *CLBE* 85, 199. For Rose's reputation as a businesswoman, see A. Sutton, 'The Mercery Trade and the Mercers Company of London from the 1130s to 1348' (PhD thesis, University of London, 1995), 237–40. It is unknown why Rose is referred to by the title of 'Dame': it is possible, given her long widowhood, that she became a vowess.

³² Thomas was alive to bring a claim before the husting court in November 1348, but when his wife wrote her will in January 1349, she described herself as a widow and gave first refusal on the [her] shops in Bridgestreet to the fishmonger, Ralph Double for the sum of £40. *CWCH* i. 521

³³ Richard alone came of age and received his patrimony from her and Gedney in 1452. *CLBK*, 280–1; Jor. 4, f. 184r

implicit promise to remain a widow, although this allowed her to continue to manage her own, and her children's estates. Nonetheless, she caused something of stir in London society when she broke this vow to get married again for a fourth time, in 1444, to John Gedney, one of the underwriters for her sons' inheritances.³⁴ Perhaps for one widow at least, the management of a multi-thousand-pound estate alone proved just too much.

WIDOWS AND PATRIMONIAL BONDS

By the 1460s the Letter Books were recording recognizances and bonds made to safeguard the protection and investment of capital sums of orphan inheritances. While this became a notable cashflow and credit opportunity for the city and its trading citizens, it is striking how many women (usually mothers or stepmothers) were prepared to find underwriters and enter into recognisances and bonds themselves rather than give a child's inheritance into the hands of city merchants.

274 families recorded recognisances and financial bonds on inheritances between 1460 and 1498. Table 8.3 lists the forty-nine women who were recorded as the principal recipient of an inheritance loan. While, at just 18% of all the total, this does reverse the trend of the women to men ratio evident in wardships before 1460, it is still significant that forty-nine women were prepared to come into the court of aldermen and enter into a financial bond to manage and pay back sums of money ranging from £4 3s. 4d. to £1,885 12s. 4d.

It is possible to trace the details behind some of these women to gain an insight into just what it meant to manage estates in this manner.

³⁴As a result of this marriage, she and Gedney were both put to penance by the church for breaking her vow. Strype, *Survey of London and Westminster*, i. 123; M. C. Erler, 'Three Fifteenth Century Vowesses' in *Medieval London Widows*, ed. Barron and Sutton (London, 1994), 171–6

8: Women and Wardship

TABLE 8.3: WOMEN LISTED AS PRINCIPAL RECIPIENTS IN INHERITANCE BONDS, 1460–1498 (DATA PRESENTED BY FAMILY)

Date	Principal loanee	Value of bond	Date	Principal loanee	Value of bond
1460	Roo, Margaret	£433 6s. 8d.	1474	Persone, Johanna	£40
1462	Sevenoak, Johanna*	n/a	1474	Selley, Margaret	£16 2s.
1462	Lock, Elizabeth	£349 6s. 8d.	1474	Picas, Johanna	£20
1464	Bristall, Margery	£20	1474	Bacon, Margaret	£36
1464	Plomer, Alice	80 marks	1476	Dey, Margaret	£143 5s. 8d.
1464	Carter, Johanna	40 marks	1477	Richer, Marion	£72 5s. 4d.
1464	Donybat, Elena	40 marks	1477	Lok, Agnes	£40
1464	Claver, Alice	200 marks	1479	Palmer, Elizabeth	£300
1465	Riche, Isabella	500 marks	1480	Shosmyth, Juliana	200 marks
1466	Marowe, Dame Katherine	£1,860	1480	Wyche, Margery	£4 3s. 4d.
1466	Blakman, Katherine	£52 2s. 11 1/2d.	1480	Bremonger, Johanna	£40
1467	Pounde, Elizabeth	50 marks	1482	Santone, Alianora	£200
1470	Knyf, Mathilda	£40	1484	Denys, Elizabeth	£52 9s. 7d.
1470	Barkby, Margaret	100 marks	1484	Kirkeby, Elizabeth	500 marks
1471	Codnam, Agnes	40 marks	1486	White, Katherine	£30
1471	Heyward, Agnes	£125	1486	Frosten, Matilda	400 marks
1471	Caster, Juliana	40 marks	1487	Blakham, Johanna	£100
1471	Lambe, Emma	£80	1488	Hille, Dame Elizabeth	£1,885 12s. 4d.
1472	Rawlyns, Alice	£533 6s. 8d.	1489	Edward, Margery	£110
1472	Stokker, Katherine	£200	1490	Godewyne, Johanna	£400
1472	Braybroke, Margaret	£40	1492	Gyles, Marion	£73 5s.
1472	Martyn, Katherine	£80	1494	Austeyn, Agnes	£80
1472	Gweymere, Agnes	£37	1495	Reynolde, Margaret	500 marks
1473	Wetton, Johanna	50 marks	1497	Astry, Dame Margery	£573 10s. 4d.
1473	Stathum, Marion	£40			

*Johanna Sevenoak was the Prioress of Haliwell who acknowledged receipt of the patrimony of Alice Crichefeld upon her coming of age in 1462. It is not clear if the Prioress had control of the patrimony before this transfer.

Alice Claver's husband, Richard, was already an established mercer when she married him in the early 1450s. He was probably in his forties and she, twenty years younger, was fresh out of apprenticeship as a silk woman. He died in November 1456, leaving her with a young son, also called Richard. The reason for the eight-year gap between Claver's death and Alice's bond for the 200 marks inheritance of their son is unclear. Possibly, it took time to settle the estate, or perhaps the bond was entered into as young Richard entered apprenticeship and moved out of her household. Probably because of her skill and her own trade as a silk woman, Alice never married again. She was a widow for over thirty years,

outlived her son, whose estate she managed throughout his minority, and died a successful businesswoman in her own right, in 1489.³⁵

Elizabeth Denys did not enjoy such a long widowhood but maintained a notable control over her children's inheritance. Her first husband, the ironmonger William Abell, who has no surviving will, devised £52 to his five children. Elizabeth was married for a second time to Henry Denys, a grocer and it was after Denys' death that she is found coming to court for the first, recorded, time. In September 1484, underwritten by Thomas Parker, ironmonger, Thomas Clerk, a brewer, and Henry Ungle, a "woodmonger", she entered into a bond for the Abell children's inheritance to the sum of £52 9s. 7d.³⁶ Her own will was drawn up a year later on 27 September 1485 when she probably fell victim to the outbreak of sweating sickness that swept the city during that month.³⁷ Elizabeth took care to devise the wardship onwards. Her eldest son John had come of age and was able to act as her executor. Thomas Parker, the ironmonger who had stood as her guarantor in 1484, was another executor and he and John were devised the guardianship of the remaining four children, Richard, Stephen, Sibil and Henry. Parker came to court in September 1486 and entered into a bond with three guarantors of his own for the patrimony which now stood at £137 0s. 6d.³⁸

³⁵ A. Sutton, 'Alice Claver, Silkwoman (d.1489)' in *Medieval London Widows*, ed. Barron and Sutton, 129-142; *CLBL*, 54

³⁶ *CLBL*, 214

³⁷ The sweating sickness hit London in September 1485. The mayor, Sir Thomas Hille died, and Sir William Stockker took his place but also died just two days later. *The Great Chronicle of London*, ed. A. H. Thomas and I.D. Thornley (London, 1938), 239, 438; Stow, ii. 23, 178. Of the 104 Londoners of the PCC *Logge* Register, fourteen of them, including Elizabeth Denys, almost certainly died in that month, their wills being enrolled by early November. PCC *Logge*, ii. 58

³⁸ *CLBL*, 234

In 1488, Dame Elizabeth Hille took on the large inheritance left to her six children with her husband, the grocer and mayor, Sir Thomas Hille, following his death in September 1485.³⁹ By the time the estate was settled, the share of the children's inheritance was £1,885 12s. 4d., which, with Elizabeth's own dower, meant that she was a widow in charge of at least £3,770. This is one example of orphan money staying firmly within the family. Elizabeth was the principal recipient and her children's inheritance bond was underwritten by her husband's eldest two sons, William and Richard, and his nephew John Hill, all grocers.⁴⁰ She never married again, enjoying a comfortable thirteen-year widowhood before her own death on 20 March 1501.⁴¹ During that time she oversaw good works as well as the estate, being granted the right to dig up Gracechurch Street for building a conduit, for which Thomas Hille had devised 100 marks, and contributing £10 to the building of the guildhall kitchens alongside Margery Astry.⁴²

Margery Astry herself appears twice as a principal loan recipient in Letter Book L. Her first appearance is in 1489 as Margery, widow of the grocer William Edward, when she entered into a bond for the sum of £110 for the patrimony of their son, Thomas.⁴³ Margery is not mentioned specifically as Thomas's guardian in William's will, but as he made her his sole executor, it is likely this was intended. The city certainly saw it that way and the bond was

³⁹ See [fn. 36](#)

⁴⁰ *CLBL*, 234; *PCC Logge*, ii. 78-81; *CIPM* Henry VII, series 2, i. 120. His eldest son William who was over twenty-three years of age, was named as his heir. Another son, Richard, was of age. Robert, Agnes, Edward, Johanna, Alice and Elizabeth were all minors.

⁴¹ PROB 11/12/397. *CIPM* Hen VII, series 2, ii. 487. Her son Robert, aged twenty-three, who became a merchant of the Calais staple, was her heir. C. D. Cragoe, A.R.J. Jurica, and E. Williamson, 'Parishes: Dowdeswell', in *A History of the County of Gloucester: Volume 9, Bradley Hundred. The Northleach Area of the Cotswolds*, ed. N M Herbert (London, 2001), 42-69

⁴² *CLBL*, 280; *Stow*, i. 110; ii. 178; *Great Chronicle*, ed, Thomas and Thornley, 320

⁴³ Edmund died in 1487. His will is enrolled in the PCC, PROB/11/8/85; *CLBL*, 268

recorded on 29 January 1489. Margery was married again within a year or two, to another grocer, Richard Revell. She would have been perhaps twenty-six at this time, with a young son; Revell was probably in his late fifties.⁴⁴ Revell died on 23 February 1491, leaving her with another baby son, John, as well as Thomas. Once again, she was made executor of the will, along with her stepson, and guardian to both boys. She was around thirty-one years old and in charge of two orphans' estates totalling almost £800, a sum which would be doubled by the addition of her dower. Being a wealthy widow, however, clearly did not suit Margery. She married for a third time between 1491 and 1494, this time to Ralph Astry, alderman of Aldgate ward, who became mayor, and was knighted in 1493.⁴⁵ Now a dame and having been lady mayoress, Margery was widowed again at the pinnacle of her social career, when Astry died in 1494. This seems to have been enough where marriage was concerned and she entered a long twenty-nine-year widowhood until her death in 1523.⁴⁶ In 1494, her eldest son Thomas Edward, middle son John Revell and youngest son, Henry Astry, were all minors and her household then included Astry's underage son by his first marriage, another Thomas. But the only record in the Letter Books of any wardship of the boys after Astry's death was in 1497, when Margery entered into a bond for her son, John Revell's, inheritance of £573 10s. 4d.⁴⁷ She, Thomas and Henry Astry, were the major beneficiaries of Ralph Astry's considerable estate, consisting of substantial properties in no fewer than eight London parishes, as well as manors in Surrey and Kent.⁴⁸ No evidence of Margery having to provide any security for the inheritance of these two city orphans was recorded. As a

⁴⁴ C. Martin, 'Dame Margaret Astry' *The Ricardian*, 14, (Richard III Society, 2004), 7

⁴⁵ Stow, ii., 178

⁴⁶ Martin, 'Dame Margery Astry', 12

⁴⁷ *CLBL*, 321

⁴⁸ His will was enrolled in the PCC on 20 December 1494. PROB 11/10/322

widow, however, she continued to manage the Astry, Revell and Edward estates for the rest of her long and prosperous life.

WOMEN AS TESTATORS ⁴⁹

Elizabeth Denys, when drawing up her will in September 1485, not only devised the wardship and inheritance of her five children to her executors, but also stated that one part of her moveable estate was to be divided equally between them and ‘to them be delivered as they come to lawful age’. Elizabeth was acting as any freeman of the city might. Although most testators were men devising city property and money to their orphaned children, Elizabeth Denys reminds us that the city’s orphans did not hold inheritances only from their fathers. Neither did men have the exclusive right to devise a guardianship. Although there is not a great deal of evidence for this in the will samples used in this study, there is enough to demonstrate that Elizabeth was not alone.

Agnes Forster presents a fine example. When her husband Stephen died in 1458, Agnes took on the guardianship of three of their four children, controlling the combined 2,500 marks of their inheritance throughout their minorities.⁵⁰ She was evidently good at it. Her son Robert died in 1479 leaving a widow and two young daughters and devised the guardianship of the girls and their inheritances to Agnes, rather than to his widow. When Agnes herself died in 1484, she devised the guardianship, at least the financial guardianship, of her

⁴⁹ London widows held citizen status if they remained in the city after their husband’s death and did not remarry. In these circumstances they could devise any dowry or legacy inheritance, but not their dower.

⁵⁰ PROB 11/4/294 October 1458

granddaughters' estates to her eldest son, John and her son-in law, Robert Morton.⁵¹ Agnes went into a great deal of detail about how the children's financial guardianships should be executed and what should happen should the devised guardians die. Together with other documentation that shows her actively managing the girls' estates during her lifetime, Agnes's case demonstrates a woman very much in control, even without the support of the civic government.⁵² None of the wardships of Agnes's children or grandchildren (Robert Morton died four years after, her leaving an infant son) are recorded in the Letter Books. No financial bonds were entered into with the chamberlain: Agnes, as executor and guardian, was clearly proficient at managing a considerable portfolio of inheritances on her own.

Forty-four women whose wills were recorded in the husting court between 1279 and 1497 mention known underage children in their wills. Forty-two of these are dated before 1375, although why this is so is unclear.⁵³ Of these, thirty-three women appointed guardians to minors. The earliest is in 1279 when Mabel Basset, made William, her brother, guardian of John, her son, and of his "hereditaments" until he come of age.⁵⁴ The latest is Johanna Hanampsted, widow of William, who, in 1369, devised the guardianship of her three daughters to their paternal uncle Thomas Hanampsted until the age of sixteen when they

⁵¹ The girls, Agnes and Alice, evidently still lived with their mother whom Agnes specifically instructed must be consulted on the girls' marriages 'by cause of the nyhnesse of blood'. PCC *Logge*, 285. PROB 11/7/154

⁵² I am indebted to Jane Williams for placing the Forster wills in the context of family affairs.

⁵³ The two exceptions are —in 1443, Thomas Eyre acknowledged satisfaction for the receipt of his inheritance from his mother's executors; *CLBK*, 284; *CWCH* ii. 500. In 1497, Johanna Strete in a will consented to by her living husband, devised one part of sales from lands in Greenwich, London to go to the education of Thomas Strete, her nephew, if he would become a priest. *CWCH* ii. 599

⁵⁴ *CWCH* i. 40

might “marry without disparagement”.⁵⁵ Twenty-nine of these guardianships remained outside the records of the city; thirteen of those twenty-nine guardians were family members, three were executors. One testator, Auncilla Aspell in 1349, in terms that implied desperation, devised her wardship of the two sons of John Neuport onwards, into the hands of the city chamberlain.⁵⁶ That chamberlain, Thomas Maryns, would be dead himself within months. The relationships of the remaining twelve testamentary-only guardians are unknown. Only two of these guardians are confirmed in the city records: those of Lucy Wycombe in 1342 and Johanna de Guldeford in 1361.⁵⁷ Two testamentary guardians appeared in the civic records sometime after their appointment. In 1310, two months after the will of Isabella Brun, late wife of Nicholas the goldsmith, was enrolled, Thomas de Flete, her children’s maternal uncle, was the recipient of the monies from the account rendered by Isabella’s executors.⁵⁸ One year after his daughter Katherine Holbech’s will was enrolled in May 1349, the city confirmed her named testamentary guardian, her father John Pecche, as having the wardship of her twin children Alice and William, aged six.⁵⁹

8.6 CONCLUSION

Women played a significant role in London wardship, but are largely invisible in the city’s administrative records. Examining the sources from the perspective of the starting point of these guardianships rather than from the serendipitous records of civic business, sheds a

⁵⁵ *CWCH* ii. 127–8. William her husband, had been appointed guardian of his siblings following the death of their parents in the Black Death. *CLBG*, 7. The last appointment of a guardian by a woman, chronologically by will enrolment, is Nichola Mockynge in 1375. However, she had died in 1349 and her underage son was also dead by the time her will was enrolled. See Chapter 5.

⁵⁶ *CWCH* i. 563

⁵⁷ *CWCH* i. 464; *CWCH* ii. 61; *CLBF*, 66; *CLBG*, 134–5, 155, 235

⁵⁸ *CWCH* i. 211; *CLBD*, 183, 224

⁵⁹ *CWCH* i. 543; *CLBF*, 211

different light on the underlying norms in wardship. These findings confirm that civic representations of wardship in the Letter Books might be continuous and 'complete' (in the sense that the Letter Books survive intact), but that civic representation of orphan matters actually forms but a small percentage of the business of orphanage in medieval London. Women as guardians and as widows and executors underpinned the civic process and played a much greater part than has previously been recognised. Opening up the source material in an urban study of wardship in this way challenges the hitherto patriarchal influences that may have been suggested by studies of the civic material alone, and adds weight to the arguments of historians such as Barron, Sutton and Hanawalt that women were an intrinsic part of the city's post-plague social and economic development. Women's role in wardship, financial as well as custodial, provided as much opportunity for them as their male counterparts and as such played a critical part in the motives behind the development of wardship in London.⁶⁰

⁶⁰ C.M. Barron, 'The "Golden Age" of Women in Medieval London' in *Medieval Women in Southern England*, (Reading Medieval Studies, XV, 1989), 35–58; Sutton, 'Serious Money'; Hanawalt, *Wealth of Widows*

9. ORPHANS AS A COMMODITY

“Commodity”: defined by the Oxford English Dictionary as “a useful or valuable thing.”

Previous chapters have examined the medieval progression towards a court of orphans, largely from the perspective of civic administration. However, it would be wrong to assume that the will of the city government alone was the driving factor behind this development. This section examines the motives behind the city’s development of its orphan practice: why did London invest so much time and effort maintaining, defending, developing and establishing its wardship privileges over the course of the 240 years of this study?

Much of this thesis has covered the evolution of the legal aspects of wardship: that is, London’s development of the legal protection of one of its most ancient rights and customs, granted under the common law of England. The very existence of this privilege supported the city’s political power: it was used as justification to be held up alongside any other nobleman, from magnate to lowly manorial baron, as a feudal holder of the claim of wardship in land and property. The consistency, over time and in the nature of its claims, of London’s defence of its wardship rights against the king, his justices or the church, illustrates the importance to the city of this deeply entrenched legal prerogative. But medieval lives were not lived in a ‘bubble’ of law, governance, and politics. Many factors, financial, economic, social, religious, influenced the day-to-day choices and actions of Londoners. As such, all have a place in the discussion of motives behind the city’s development of its wardship practice.

9.1 A SOURCE OF CREDIT

FOURTEENTH CENTURY: 'TO TRADE WITHAL'

In 1291, as the will of Robert Deumars, cutler was being executed, William LeFaure, a fellow cutler was brought into court to answer for a sum of £32 devised to him, by Robert, for the use of Robert's son while in minority. LeFaure declared that the money was tied up in the cutlers' craft and that he would render account for it, and the profits thereof, when the young Robert Deumars came of age.¹ This is the earliest record of a procedure later claimed, by citizens, as a part of the custom of wardship: in 1352 John de Holegh left money to his daughter and grandchildren, "to be placed with some trusty merchant of the city of London who will answer for the profit arising therefrom *according to the manner and custom of orphans in London*."² There is no evidence as to where this convention originated, but it became a mainstay of wardship and provided Londoners with a substantial motive for the development and protection of their rights.

Like Holegh, Sir Hugh de Hengham bequeathed 50 marks to his (probably illegitimate) son in 1310 and his executors passed it to the chamberlain in order for it to be delivered "to trusty men to trade withal for the benefit of the said Robert."³ Others nominated particular beneficiaries of the patrimony, specifically asking them to trade with inheritances until children came of age. John Tan's father entrusted this to his executors in 1311; the skinner, John Honylane, to his vintner brother in 1314; the mercer, John Stable, to his apprentices in 1363, Joyce Evatte to one 'John Hook' in the same year; and, in 1421, the city allowed John Godyn, who had married the orphan Isabella Holes, to trade with her inheritance of £100

¹ *CWCH* i. 103; *CLBA*, 122, 177

² *CWCH* i. 656

³ *CLBD*, 182

until he was able to acquire property of that value to settle on them as a married couple.⁴ Even women might venture to use a patrimony to advantage. In 1323, Mabel, widow of William de Hockele, acknowledged a debt of £10, owed by her (perhaps as an executor of her husband's will) to his son the younger William Hockele, then two years old, and at the same time acknowledged receipt of £30 bequeathed to the boy by his father. It is unclear if Mabel was young William's mother but the fact that she owed the debt and "covenanted to use the money for his son's interest according to the custom of the city" does suggest that she was taking on financial guardianship as well maintenance of the boy.⁵

Such investments were not solely at the will of the father. An intriguing case spanning nineteen years suggests that, even in the fourteenth century, capital sums within orphan patrimonies were directed through the chamberlain as loans to respectable city merchants, albeit on a smaller (and less effectively administered) scale than that seen a century later. Adam de Acres had been the common sergeant of the city, appointed in 1351, and had married Johanna, the widow of Anketin de Gisors.⁶ In March 1357, an extract of his will confirmed that he had bequeathed £20 to his infant son Oliver (the illegitimate child of Kathrine de Hynton) and had appointed Thomas de Waldene, the chamberlain, to be guardian of the inheritance. Acres' executor paid £9 to the chamberlain and, by order of the mayor, a sum of 20s was given to Katherine for the child's maintenance.⁷ Just four months later, the £9 was given by the chamberlain to William de Foxtone, an apothecary, who was to hold the sum for two years, at which time he was to pay back the £9, plus profits of two shillings in the pound per year to the orphan's account, "as was the custom of the city."⁸ As

⁴ *CLBD*, 182, 189; *CLBE*, 27; *CWCH* ii. 77; *CLBG*, 7; *CLBI*, 253

⁵ *CLBE*, 180

⁶ *CLBF*, 234; *CLBG*, 3

⁷ *CLBG*, 83

⁸ *CLBG*, 91

an apothecary, Foxtone clearly lacked mercantile experience. He duly came back into court in 1359 but returned just £8. That sum was immediately transferred to John de Yakeslee, senior, stockfishmonger, who, in 1365, paid out maintenance money to an Alice de Hyntone who now had the charge of young Oliver.⁹ In 1367, the £8 was transferred again, to Reginald atte More, a draper, who returned the sum in 1369 when it was finally passed to Roger de Hyntone, a cordwainer and probably a relative of young Oliver on his mother's side.¹⁰ It is likely, however, that Oliver died before he could receive this much-used inheritance. In February 1376, nineteen years after Adam de Acres's death, Hyntone's wife and executor, and the sureties he had brought to court in 1369, rendered an account for the £8 of Oliver's inheritance before the chamberlain and Ralph Strode. Oliver is not mentioned.¹¹

While these are specific records of patrimonies being used as loans, accounts rendered and recorded under Ralph Strode provide evidence that any guardian, stepfathers, testamentary guardians or those appointed by the city, might trade with the money until it had to be returned when a child came of age or married: London ensured that orphans' inheritances were not 'dead money' but that they became a useful source of capital. The detailed accounts of Robert de Brynkleye for Thomas atte Bourne in 1374, and of John Bryan for Alice Reyner in 1380, for example, both begin with a note of the sum received and then the sum returned. Profit was then calculated carefully at four shillings in the pound per year, of which half was

⁹ *CLBG*, 91, 109, 111

¹⁰ By this time, Oliver would have been fourteen and it is possible that he was apprenticed to Hyntone. *CLBG*, 216

¹¹ Once again, the account is written, in a later hand, in small space left below the 1367 entry. *CLBG*, 217; COL/AD/01/007 (Letter Book G), f. 91v

returned to the orphan and half granted to the guardian ‘for his trouble’.¹² There is no mention of what happened to any profit made over and above this ‘four shillings in the pound per year’. However, the will of the grocer William Staundon in 1421, provides a clue that the ‘four shillings’ rule may, at this time, have been arbitrary, or that it was imposed only on orphan estates managed through the city and could be overridden by testamentary instruction.¹³ Staundon left £300 to a daughter and godson “the sums in the meanwhile to be entrusted to a merchant to trade with within the realm of England...the said merchant taking half the profits for his trouble.”¹⁴

FIFTEENTH CENTURY: THE CHAMBER AND CREDIT

In the fifteenth century, patrimonies ceased to be recorded as incomes from property, and gave way to records of the full capital value of the estate [Figure 9.1], a development that stemmed from the changes to city wardship described in Chapter 6. By the mid-fifteenth century, London’s government was able to take inheritances, the happy financial by-product of a common law- and *legitim*-derived accountability and start to make them the mainstay of civic finances they would become in the early modern period.¹⁵

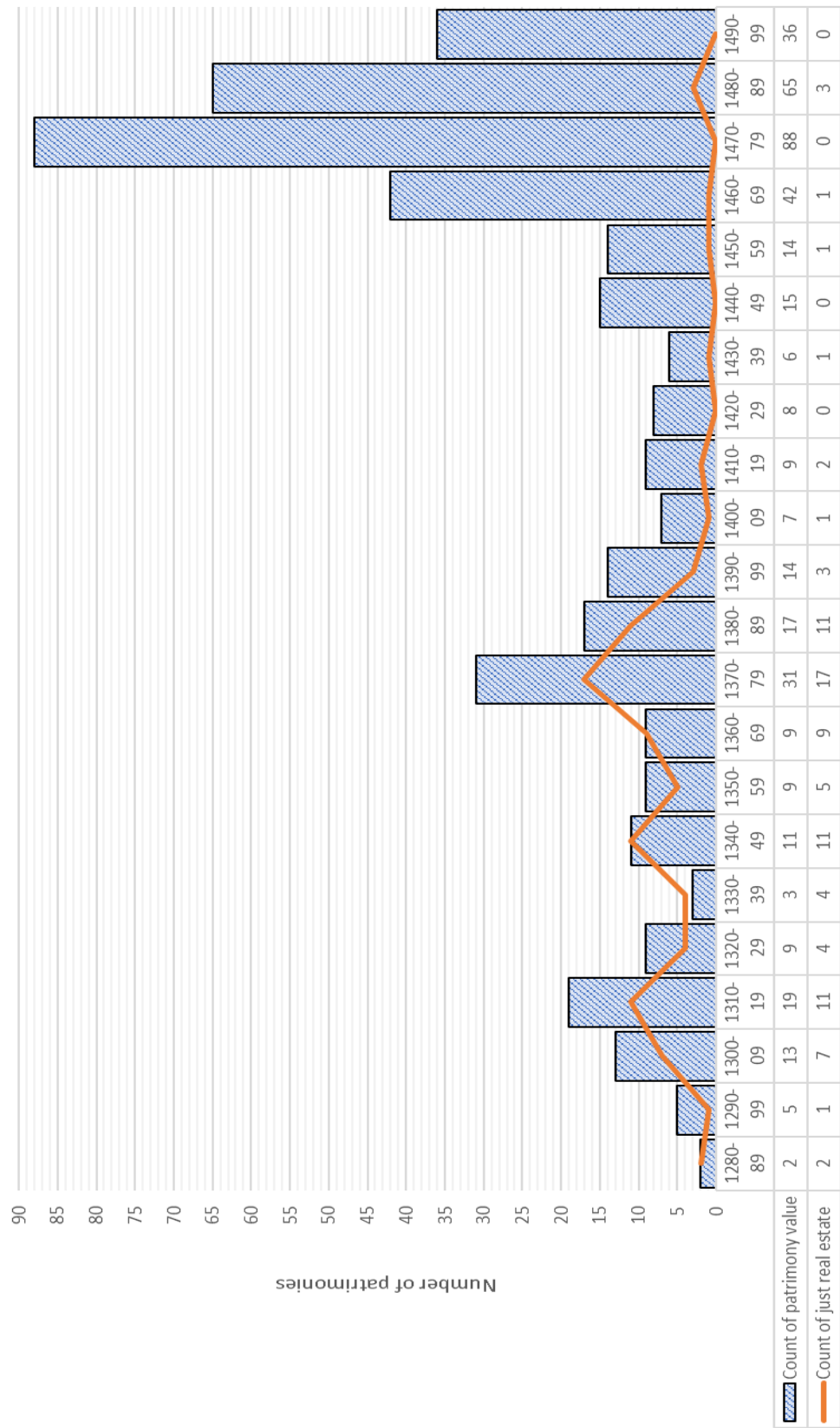
¹² COL/AD/01/007 (Letter Book G), f. 317r; *CLBG*, 323; COL/AD/01/008 (Letter Book H), f. 37r, *CLBH*, 28

¹³ By the early modern period this was acutely defined as level of interest to be returned on loans from the chamber: £5 in every £100 up to a maximum of £500 on an orphan’s portion and £3 6s. 8d. in every £100 on legacy money. Bohun, 292-3

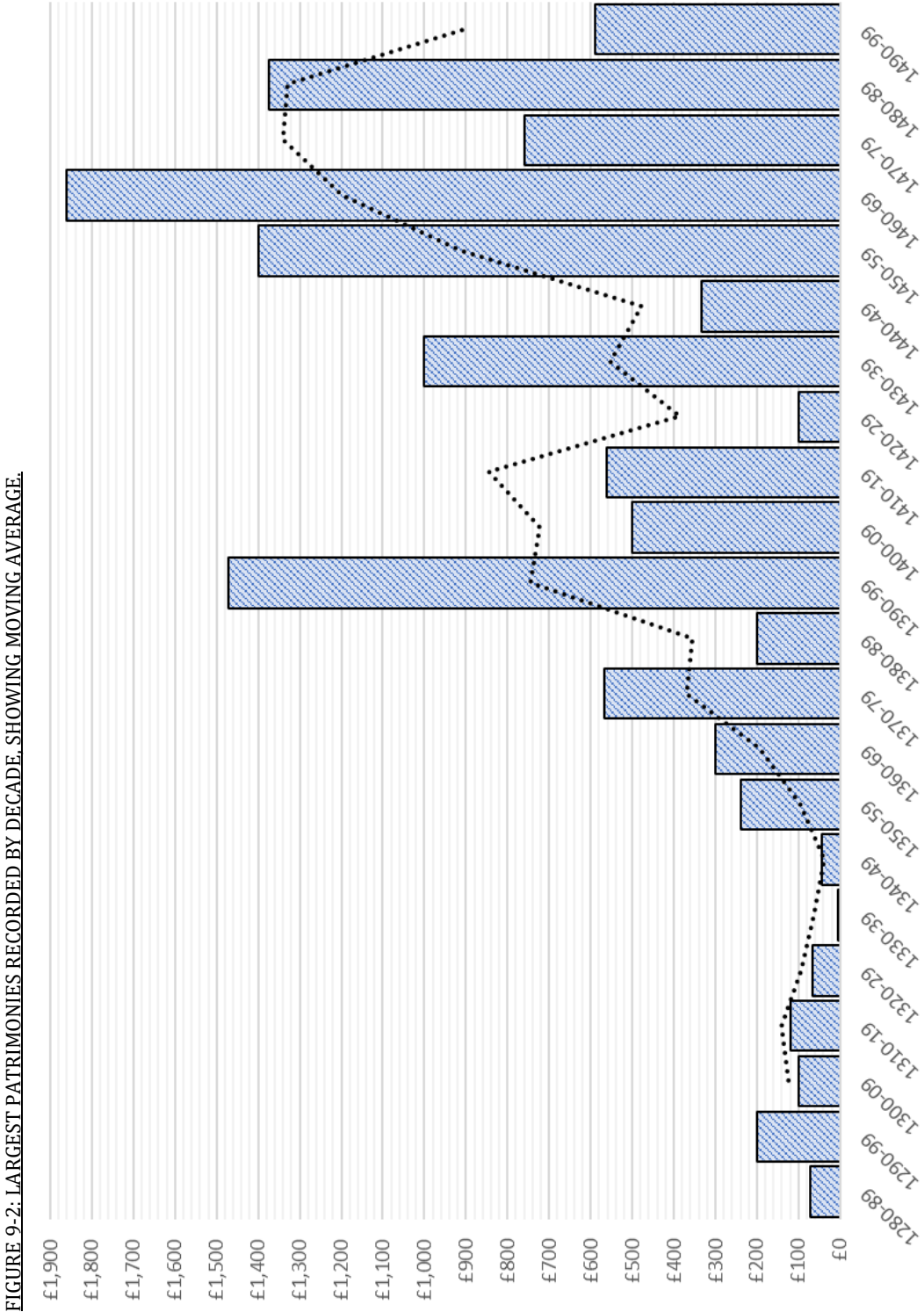
¹⁴ *CWCH* ii. 393

¹⁵ Note the peak in the decade 1370-79. Ralph Strode was concerned with the whole value of an orphan’s estate, not just the real estate and recordings during his tenure reflect a spike in the capture of whole patrimonies. See Chapter 6. Harding, ‘The Crown, the City and the Orphans’ 58–60

FIGURE 9-1: CASH V. REAL ESTATE PATRIMONIES RECORDED IN THE LETTER BOOKS OVER TIME – BY FAMILY:



Sources: *CLBA-L*; *CEMCR*; *CPMR* i-vi; Jor., i-iv



Sources: CLBA-L; CEMCR; CPMR i-vi; Jor., i-iv

TABLE 9.1: CASH VALUES OF WARDSHIP PATRIMONIES AS RECORDED IN THE LETTER BOOKS- BY FAMILY:

Decade	Value of lowest recorded patrimony	Value of highest recorded patrimony	Number of records where a patrimony value is recorded	Patrimony recorded as % of recorded wardships	Number of patrimonies worth £200-£500	Number of patrimonies worth > £500
1280-89	£34	£72	2	33		
1290-99	£1	£200	5	71	1	
1300-09	£1	£100	13	41		
1310-19	£1	£120	19	33		
1320-29	£10	£66	9	28		
1330-39	£5	£5	3	14		
1340-49	£3	£45	11	24		
1350-59	£5	£240	9	16	1	
1360-69	£13	£300	9	13	1	
1370-79	£1	£566	31	42	2	1
1380-89	£4	£200	17	34	2	
1390-99	£1	£1,471	14	33		2
1400-09	£6	£500	7	24		1
1410-19	£17	£561	9	22	2	1
1420-29	£4	£100	8	19		
1430-39	£6	£1,000	6	18	1	1
1440-49	£7	£333	15	44	2	
1450-59	£10	£1,400	14	82	2	1
1460-69	£5	£1,860	42	72	10	3
1470-79	£2	£759	88	98	13	3

Sources: *CLBA-L*; *CEMCR*; *CPMR* i-vi; *Ior.*, i-iv; Notes: These figures show cash values of patrimonies and do not include instances of recorded real estate income. For purposes of analysis, inheritances recorded in shillings and marks have been converted to £ s. d. and then each sum rounded up or down.

Patrimonies were a rich source of credit especially at a time when the city was enduring a financial down-turn.¹⁶ The trendline in Figure 9.2 shows that these sums, on average, became progressively larger over the course of the fifteenth century and the detail in Table 9.1 illustrates that, by the last quarter of the fifteenth century these often-substantial sums were being recorded in the Letter Books as civic loans as a matter of course. This evolution of the city's chamber as a repository either to hold orphan inheritances in trust or to lend them out to reputable city merchants who could either provide surety or, later, were prepared to enter into a bond for its return, with profit, was a slow development. As early as 1307, executors are recorded as paying money into the chamber to be held there for the use of orphans.¹⁷ Indeed this may have been a preferred option for some mothers who were appointed as testamentary guardians by their husbands, but who did not wish to be directly responsible financially for their children's inheritances. Custace, late wife of Thomas Skynnere, paid £15 into the chamber for the use of Alice, Cecily and Johanna, their daughters, even though they were still in her custody.¹⁸ Not just cash, but chattels could be deposited: money and a spice dish were given into the chamber in 1361 by the executors of Isabella de Wycombe's father and the chamberlain held jewels on behalf of Alice Reyner and a chest of property deeds and scrolls for John Costantyn.¹⁹ From the chamber, special payments outside of normal maintenance might be granted; in 1411, for example, when

¹⁶ See Chapter 8.

¹⁷ The executors of John de Middlesbrough paid £25 into the chamber to keep there for the use of his orphaned children. *CLBC*, 208

¹⁸ Custace had remarried by September 1378 when the mayor authorised her husband Richard Hugefeld, goldsmith, to hand over 5 marks to William Lambourne and Beatrice his wife, to whom Alice had been bound as apprentice. However, the chamberlain still had control of the money as he is recorded as handing the sum over to his successor in October of that year. *CLBH*, 5, 103

¹⁹ *CLBG*, 122; *CLBH*, 16, 103

John Wodehous married the daughter of Henry Wolryby, his father in-law petitioned the chamberlain for money out of the boy's £84 patrimony to pay for his education.²⁰

These deposited sums must have provided a healthy fund in the city coffers and were meticulously monitored by the chamberlain: although no others survive, there is one recording in 1378, of orphan patrimonies being carefully handed over from one chamberlain, William Eynesham, to his successor, John Ussher.²¹ In 1391, the fund was of such a respectable size that the mayor Adam Bamme gave a personal recognisance as a citizen and goldsmith and entered into a bond to pay back £400, the property of seven named orphans, when he borrowed that sum to buy corn for the commonalty of the city.²² By the 1460s, such inheritances as did not remain with a child's mother or go directly to a testamentary guardian were being actively managed through the chamber. Having been deposited by executors, sums of money into the thousands of pounds were subsequently either retained (and maintenance money paid out from the capital sum for the orphan during minority) or loaned out to merchants at a 10% interest rate.²³ This no doubt helped the city's financial management. Orphan money provided much-needed capital that could be

²⁰ Education might mean school or apprenticeship. *CLBI*, 54

²¹ The patrimonies of Alice Reyner, the Syknnere girls and Peter Whappleode. *CLBH*, 103. The sixteenth-century chamber accounts suggest that this administration was probably recorded through the chamberlain's office after this time via orphan ledgers. *Chamber Accounts*, ed. Masters 9–10, 62

²² The patrimonies were those of John Ratford, glover, John Devenysshe, John Biernes, skinner, William Wircestre, Nicholas atte Walle, "taillour," Peter Whaplode, and William Tonge. The sum borrowed from the orphans' chest may have been considerably higher. The chronicler, John Knighton, claimed that the mayor and aldermen actually borrowed upwards of 2000 marks. *Knighton's Chronicle*, ed. G. Martin, 538; *CLBH*, 362

²³ Thrupp, 105

directed internally, providing an alternative to credit from alien moneylenders and a crucial source of cashflow when the economy was impacted by war debts.²⁴

This financial motive to provide readily available credit pushed the evolution of a prescribed orphanage procedure perhaps more than any other. From 1428, the chamberlain was able to call any holders of orphan legacies into the chamber should there be need to and, in 1492, all recipients of orphan loans were to present themselves yearly in the Guildhall, marking the start of a formal ‘court of orphans’ annual audit.²⁵ With the standardisation of the process, the introduction of formal ‘finding fees’ (maintenance payments), and the strict protocols for the civic presentation of orphans and their estates in the first half of the sixteenth century, and assumption of civic control over all orphan matters in 1536, the city’s influence over all orphan portions and legacies was finally consolidated, and became that regular and finely accounted source of credit that London and its citizens would heavily rely upon until the eighteenth century.

9.2 ECONOMIC INVESTMENT

This steady flow of credit provided economic opportunity to Londoners and there is a wealth of evidence to suggest that that opportunity was acted on. During the time span of this thesis there were significant periods where money and people, both critical commodities in the economic development of the city, were scarce. Orphan patrimonies and the children themselves, protected and invested back into the city as money and resource, played their part in the economic well-being of medieval London.

²⁴ See Chapter 7.

²⁵ Jor. 2, f. 112v; *CLBL*, 286

DISTRIBUTION OF CAPITAL

The argument that London benefited from a more even circulation of inherited wealth across social networks and trade communities, than the more linear patriarchal distribution found elsewhere in English society, is supported by this study.²⁶ The patrimonies of London orphans, whether from the income from property holdings across the city, the use of valuable wharfs or shops or, as became more the practice by the late fifteenth century, simple but substantial loans at a low rate of interest, provided significant investment in the city's crafts, guilds and companies. Unsurprisingly, the mercantile trades benefited the most. Table 9.2 shows that 60% of all recorded patrimonies over the course of two and a half centuries were directed into just seven companies: the Mercers, Drapers, Grocers, Fishmongers, Goldsmiths, Tailors and Skinners. The Mercers were by far the leaders in seeking the opportunity of patrimonial monies for investment. Between 1460 and 1471, for example, the mercer, John Aldburgh, was among the recipients of seven orphan patrimony loans from the chamber, totalling £1,639 1s. 6d.²⁷ Another 14% was borrowed by the Chaundlers, Vintners, Ironmongers, Cordwainers, Saddlers and Brewers and a sprinkling of city "gentlemen" (a common fifteenth century term for 'lawyer'). What is perhaps surprising, but commendably opportunistic, is the strong appearance, in this middling group, of smaller companies such as the Ironmongers and Brewers who could not compete equally in terms of numbers, with the larger mercantile companies. From another perspective, just 26% of all monies generated by orphan patrimonies in this period found its way into the other seventy-seven smaller crafts and professions recorded.²⁸ When broken

²⁶ Hanawalt, *Wealth of Widows*

²⁷ *CLBK*, 400, 401; *CLBL*, 4, 39, 62, 81, 99

²⁸ As earlier chapters have shown, what was recorded, or remains, is not representative of orphans as a whole. But the inheritances of significant value, propertied or capital, did tend to make it into the [cont.]

9: Orphans as a Commodity

TABLE 9.2: BREAKDOWN OF THE GUARDIAN TRADES RECORDED IN CIVIC RECORDS 1258–1498 ²⁹

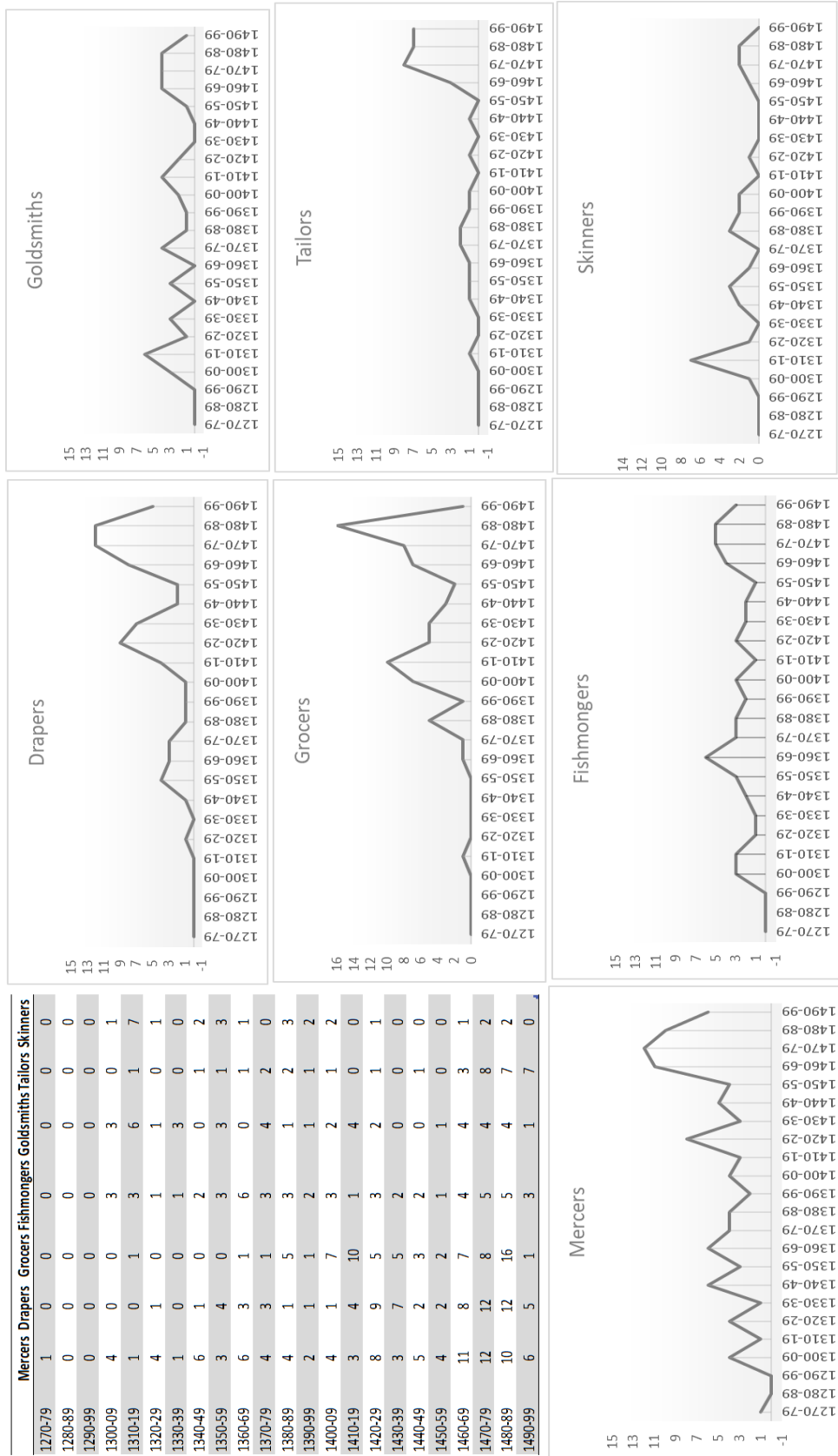
Trade	Number	Trade	Number	Trade	Number
Mercer	102	Armourer	3	Burser	1
Draper	76	Courier	3	Capper	1
Grocer	73	Dyer	3	Chaloner	1
Fishmonger (incl stockfishmongers)	69	Founder	3	Chaucer	1
Goldsmith	44	Fuller	3	Cheesemonger	1
Tailor	36	Hatter	3	Chief Baron of the Exchequer	1
Skinner	28	Painter	3	Clerk	1
Chaundler	18	Rector	3	Cooper	1
Vintner	17	Tanner	3	Cornmonger	1
Ironmonger	16	Barber	2	Fruter	1
Cordwainer	13	Beadle	2	Hurer	1
Saddler	12	Blader	2	Husbandman	1
Brewer	11	Brasier	2	King's Charger in the Tower	1
Gentleman	11	Chapeler	2	King's Herberger	1
Haberdasher	9	Chaplain	2	Leather Merchant	1
Girdler	8	Coffrer	2	Master of the Hospital of St Bartholomew	1
Shearman	7	Fletcher	2	Moneyer	1
Woolmonger	7	Glover	2	Notary Public?	1
Cutler	5	Inholder	2	Pasteler	1
Peautrer	5	Joiner	2	Paternosterer	1
Salter	5	Poulterer	2	Pewterer	1
Apothecary	4	Prioress	2	Stationer	1
Baker	4	Spicer	2	Tax Collector	1
Butcher	4	Surgeon	2	Tiler	1
Carpenter	4	Upholder	2	Timbermonger	1
Corder	4	Woolman	2	Whitawyre	1
Fellmonger	4	Bailiff	1	Wire Drawer	1
Fripperer	4	Batour	1	Woodmonger	1
Goldbeater	4	Bishop	1	Yeoman	1
Knight	4	Brouderer	1		
Scrivener	4	Bureller	1		

Sources: *CLBA-L*; *CEMCR*; *CPMR* i–vi; *Jor.*, i–iv

civic records for just that reason. It might therefore be assumed that this monopoly of the big livery companies is reflective, and, given their very mercantile nature, unsurprising.

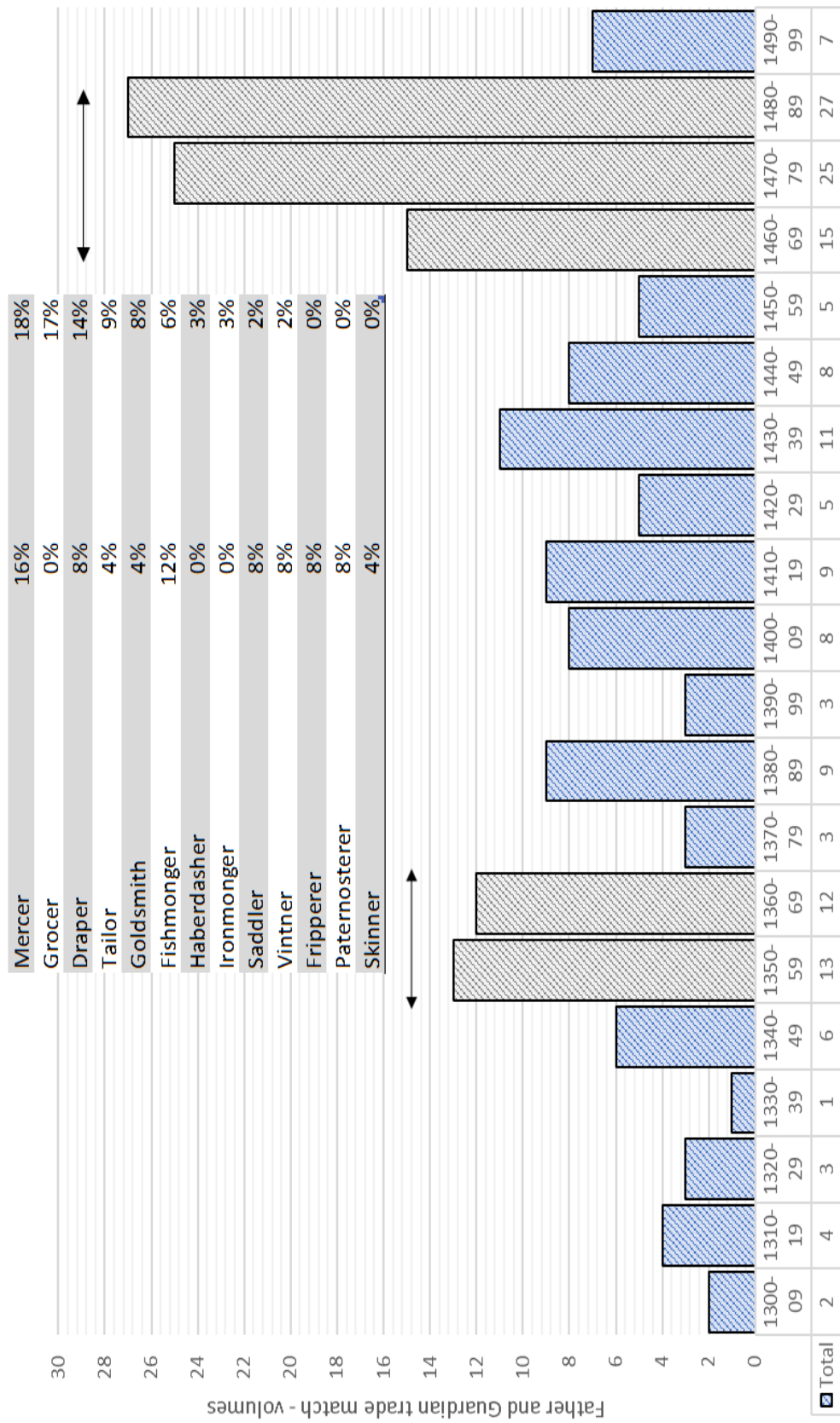
²⁹ This table illustrates a simple breakdown of the trades, where known, of guardians as recorded in civic records. For this calculation, these guardians may have had wards whose fathers had other trades.

FIGURE 9-3: COUNT OF GUARDIANS FROM THE TOP SEVEN COMPANIES, PER DECADE, SHOWING INDICATIVE PATRIMONIAL INVESTMENT IN COMPANIES, OVER TIME:



Sources: CLBA-L; CEMCR; CPMR i-vi; Jor., i-iv

FIGURE 9-4: INSTANCES WHERE A FATHER'S TRADE MATCHES THAT OF THE GUARDIAN, WITH DETAIL OF THAT TRADE BREAKDOWN FOR PEAKS IN 1350-69 AND 1460-89



Sources: CLBA-L; CEMCR: CPMR i-vi; Ior., i-iv

down over time, [Figure. 9.3] the indicative investment of patrimonies presents a varied pattern. Members of long-established companies like the Mercers and Goldsmiths benefitted from a steady injection of inheritance money over the course of the fourteenth and fifteenth centuries. The Fishmongers' chart shows a peak in the 1350s –1370s when the guild was prominent amongst the mercantile elite. The Skinners peaked early, benefitting more from the availability of inheritances in the early fourteenth century than at any time later, while the Grocers and Tailors found their niche in the wardship patrimony market comparatively late.

CONTINUITY OF TRADE?

How far was this investment in the form of capital (and children as apprentices) kept within the companies? Was there a discernible tendency for a guild to favour its own? Or was the premise simply to keep the economic benefits of the city's wardship practice within the city's jurisdiction?

There are certainly aspirations, logged in fathers' wills, that a child might follow in his footsteps, some conditional, others merely hopeful. In 1285, Robert de la More, tanner, left his house and his shop to his son William, on condition that William teach his brother their trade "and sit with him in his shop whilst being taught, without payment".³⁰ In 1349 Walter Mosehache, also a tanner, devised £10 of silver and two leather troughs to his daughter Margery, "providing she marries someone of his craft."³¹ Others were less prescriptive, but nonetheless aspirational. Before his death in the Great Plague, Bartholomew Arnald, another tanner, left his place in the Tanners' Seld to his son should he wish to become a tanner,

³⁰ *CWCH* i. 69–70

³¹ *CWCH* i. 574

otherwise devising it to his apprentice and the Society of Tanners.³² In 1365, John Hyngestworth, pewterer, left 1,000 pounds of pewter and the tools of his trade to his eldest son, and all the tools of the goldsmith John Baulstrode's, trade were devised to his son in 1420.³³

But the father's control ended at the point of writing his will. As has been shown, most guardianships were devised to mothers, so it is not easy to trace evidence of fathers' hopes for the continuity of their trade. Some trades, however, appeared to have made keeping wardships, and thus children and their inheritances, within the guild, a priority. Figure 9.4 maps those instances captured in the civic records where fathers and guardians' guild affiliation, matched. These did not, like testamentary guardianships, reflect a father's choice, but rather the choice of the city, the guilds, or the mothers seeking new husbands.

The chart shows two distinct peaks in the correlation of father-guardian trade links; the period after the Black Death and the late -fifteenth century decades where wardship was captured purely as a series of loans. Both show evidence that certain guilds did make attempts to use the guardianship of orphans and their patrimonies to their advantage.

In the 1350s–1370s, there is a noticeable connectivity between fathers, guardians and sureties amongst members of the Fishmongers' guild. Fishmongers had a tendency to look after their own: in 1346, Roger de Bernes, fishmonger, bequeathed the shares in his boat to his son, Thomas, who was his apprentice.³⁴ The fishmonger Jordan Baudri, who died in

³² *CWCH* i. 620 The Tanners' Seld was in Cheapside and was a notable feature of a distinct Tanners' community up to the end of the fourteenth century, but a lack of heirs to the tables and stalls in the aftermath of the Black Death forced a more corporate approach to leasing space. Keene, 'Tanners' Widows,' *Medieval London Widows*, ed. Barron and Sutton, 11–3

³³ *CWCH* ii. 84–85, 421–2

³⁴ *CWCH* i. 485. His brother William, also a fishmonger, died in 1348, leaving his children in the care of his brother Thomas de Bernes. *CWCH* i. 611

1350, devised the guardianship of his son and his property to his business partner, John de Hastynges, also a fishmonger.³⁵ 12% of the discernible matches between fathers and guardians in the period 1350–79 belonged to the Fishmongers, exceeded only by the mercers and Figure 9.5 illustrates the strong connectivity of minors, guardians and sureties between fishmongers in the same period. The fishmongers concentrated in the parishes of St Magnus and St Boltoph Billingsgate and the suggestion, in Chapter 5, that there was an element of philanthropical parish care behind these links, still stands. But, in the period after the Black Death, the Fishmongers were rising successfully to their established position amongst the elite mercantile guilds, and this period of cash injection, carefully directed back into the guild, would only have assisted such economic growth.³⁶ John Yakesle took on the guardianship of the son of fellow fishmonger William Double, following the death of his first (testamentary) guardian, fishmonger Michael Clench, in 1357. But Yakesle was also one of the financial guardians of the patrimony of young Oliver de Acres, receiving his £8 as a loan between the years of 1359–6.³⁷ Care of orphans was important, but keeping the money in the hands of guild members was useful too.

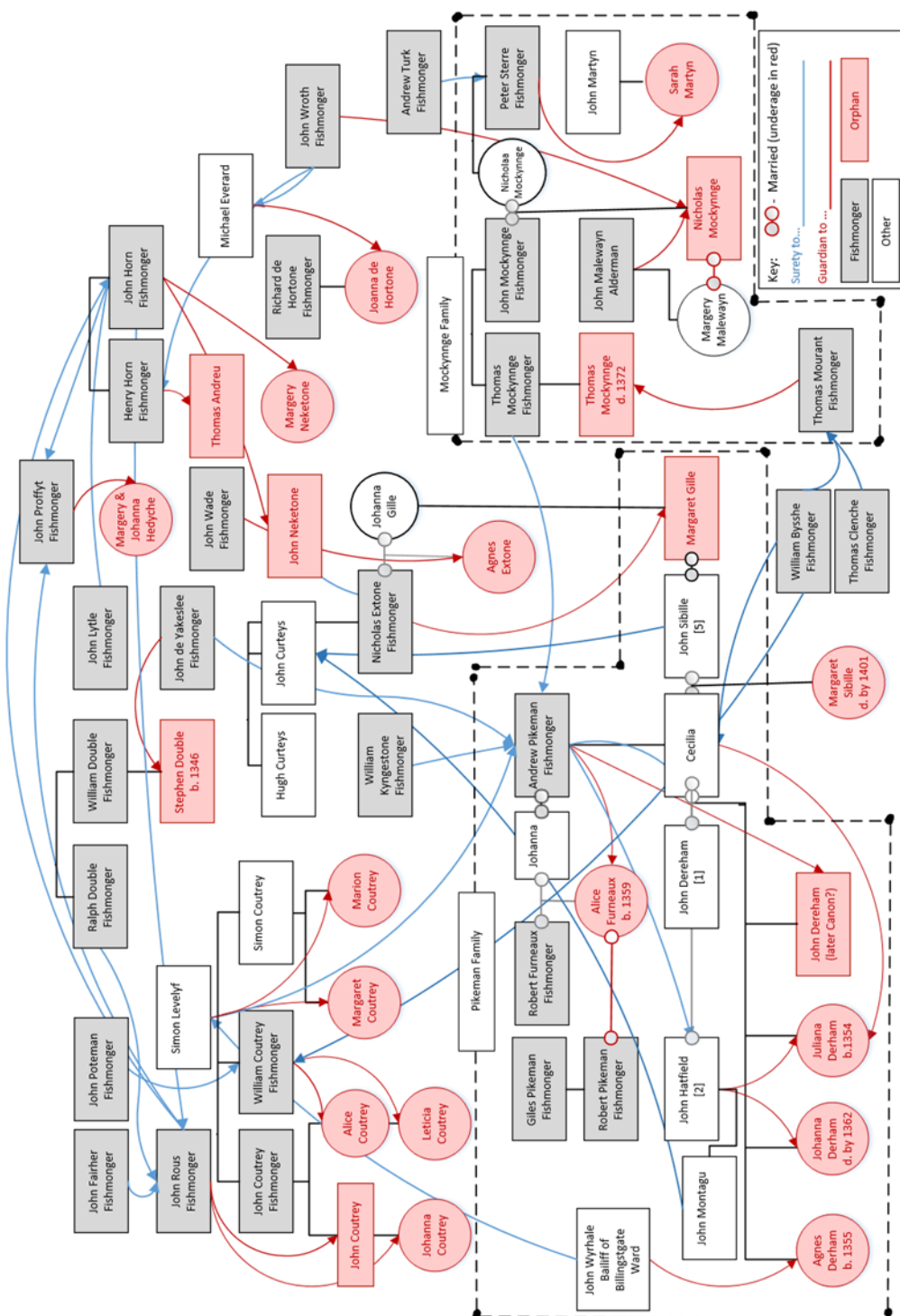
The second peak of connectivity between fathers and guardians falls in that period when the city had established patrimonies as loans. Again, the men of the mercantile guilds dominate the analysis, with mercers, grocers, tailors, drapers, goldsmiths and fishmongers making up 70% of those cases where a link can be established between the deceased father and his guild. Members of the top two guilds, the Grocers and the Mercers, like the Fishmongers in

³⁵ *CWCH* i. 630

³⁶ The Fishmongers rose to dominance in civic government towards the end of the fourteenth century. By the fifteenth, however, their presence in civic office had begun to decline. Barron *LLMA*, 139

³⁷ *CWCH* i. 613, *CLBG* 109, 111. See also Chapter 6.

FIGURE 9-5: ORPHANS, SURETIES AND GUARDIANS AMONGST FISHMONGERS OF BILLINGSGATE WARD, 1349-1400



the fourteenth century had perhaps found economic advantage in keeping patrimonial investment within the trade. In the civic records, there are twenty-three instances across the centuries of mercer children entering into the guardianship of a mercer, who, in turn, had mercers as his sureties.³⁸ The Grocers are not far behind with fourteen.³⁹

It might be expected that the children, as a critical resource, were as valuable as their inheritances. This is more difficult to establish than tracing links between well-recorded sums of money, but some patterns can be found. Thomas Corp, grocer, who died in 1345, left his sons in the custody of his apprentice Nicholas Martel during their minority.⁴⁰ The eminent grocer, Richard Hatfield, when he married Denise de Claverynge, widow of Richard Claverynge, took on the orphan Guy Laurence.⁴¹ In 1382, Guy received his patrimony at the age of twenty-two and, by 1387 was a member of the Grocers' guild. It is probable that he had been apprenticed to Hatfield or one of his associates.⁴² Hatfield's brother, Robert, also a grocer, who died in 1381, left a son (another Robert) in minority. Young Robert's mother married again, to the grocer John Chynkeford, and his father's executor, another grocer, John Cosyn, collected and paid his inheritance of £70 10s. 4d. into the chamber for his use in 1386. Robert was apprenticed in 1387 with a 20 marks allowance from his estate. His master is unknown, but it is likely that the young Robert was the Robert Odiham (Hatfields went by that name too) who died in 1414, leaving several orphaned children himself. He

³⁸ *CLBC*, 169; *CLBD*, 182; *CLBG*, 156; *CLBI*, 76, 112, 261, 266; *CLBK*, 9, 63, 115, 186, 208, 352, 398; *CLBL*, 39, 54, 66, 87, 108, 167, 214, 240, 304

³⁹ *CLBI*, 143, 182, 203; *CLBK*, 13, 195, 238, 292; *CLBL*, 113, 153, 156, 210, 244, 249, 300

⁴⁰ *CWCH* i. 477

⁴¹ Claverynge had died by 1375 when Guy was fourteen or fifteen. Hatfield and Denise paid him his patrimony in 1382. *CLBG*, 212

⁴² His father William Laurence had been a fishmonger and his first guardian, Richard Claverynge, a draper. *CLBG*, 212; *CCR*, Ric II, iii. 426

was a grocer.⁴³ His son, Thomas was, in turn, apprenticed to a grocer, Henry Purchase, in 1417 and his daughter, Elizabeth, married one; John Poley.⁴⁴

Mercers too were keen to retain children and steer them into the company. The mercer Robert Elsyng, son of the mercer William Elsyng, left his own son Thomas in the hands of John Edmund, his apprentice, and his brother Jordan, also a mercer, until Thomas came of age. Thomas did, of course, enter the mercery trade. Thomas atte Boure, son of a mercer, was left in the care of his uncle, a vintner, but his patrimony went to two mercers and, in 1374, he was apprenticed into his father's trade.⁴⁵ Several generations of the Coventre family, including orphaned children, were involved in the guild, their patrimonies carefully protected by mercer family members, and the predominance of mercers in the period of patrimonial loans from the chamber, suggests that many more orphaned children were directed into this great mercantile guild.⁴⁶

However, an analysis of the links between orphan children as apprentices and the trades of their fathers shows that, outside of these great guilds, the emphasis was more on ensuring that the child learned a trade or perhaps entered into a better one than his or her father. Of ninety-five orphans identifiable in the civic records as having been put to apprenticeship, only thirty-eight have a father whose trade is known. Of those thirty-eight, only nine show a match with the father's trade; three saddlers, a fripperer, butcher, grocer, mercer, draper and a goldsmith.⁴⁷ Some found that their father's death and a patrimony gave them a chance

⁴³ See Nightingale, *Mercantile Community*, 328. *CWCH* ii., 223, 407-8; *CLBH*, 165, 170, 171

⁴⁴ *CLBH*, 178, 182

⁴⁵ *CLBG*, 132, 170, 323; *CPMR 1364-81*, 175

⁴⁶ The Coventre family are discussed below.

⁴⁷ Children not being apprenticed to their father's trade was commonplace. Stephanie Hovland found evidence of this with a broader sample of apprentices. Of 396 boys apprenticed into the Skinners' [cont.]

at a more lucrative career. John Prynce, the son of a painter, orphaned with a patrimony of £100 in 1406, became apprenticed to a mercer.⁴⁸ John Holam, the son of a bookbinder, was apprenticed to a tailor in 1427 and, although brewing was a respectable enough trade, Henry Adam and Laurence Smith, both orphaned sons of brewers, gained apprenticeships with a draper (in 1395) and a grocer (in 1425) respectively.⁴⁹

The records suggest that, in apprenticing orphans, the concern seems to have been more about ensuring that they were taught a trade rather than which one they entered. In 1306, the orphan Nicholas le Paumer was given into the guardianship of William Caustone, mercer, on the condition that Caustone undertook “to instruct his ward in his own trade for the space of eight years.” His brothers Edward, Thomas and William were given to a ‘chapeler’, a corder and a fishmonger respectively.⁵⁰ Three years later, Thomas Flemmyng, an armourer, bequeathed 30s to John, orphan son of John le Alemund, to teach him a trade and the city put him into the care of a saddler, Robert Borgman to whom he was then apprenticed.⁵¹ When John Godolf’s draper master absconded from the city in 1398, the mayor and aldermen supported him but instructed him to find another man to teach him the same, or any, trade.⁵² Healthy London children were of considerable value to the economic development of the city: in a period where guilds were forced to recruit heavily from the

company between 1496–1515, only eleven had skinner fathers. See S. Hovland, *‘Apprenticeship in Later Medieval London (c.1350–c.1500)’* (PhD thesis, University of London, 2006), 279

⁴⁸ *CLBI*, 12

⁴⁹ *CLBH*, 395; *CPMR 1413–37*, 180

⁵⁰ *CLBC*, 200

⁵¹ *CLBD*, 103

⁵² *CPMR 1381–1413*, 253

hinterlands and beyond, the value of children in situ with known and respected fathers and ready cash sums for investment, cannot be overstated.⁵³

A GOOD START

No matter what the trade, once an orphan had completed an apprenticeship and come of age, an inheritance provided a healthy kick-start to a career. Advancement in city companies cost money. After apprenticeship, a young man would usually spend a few years as a servant, gathering the capital needed to acquire a stall, a cupboard in a seld, or even a shop. Anyone with even a small inheritance might find those long, grafting years considerably shortened. Climbing the guild ladder also cost money. Upcoming young mercers in 1456-7 had to have capital of at least £100 to attain the status of shopkeeper (set at £40 for grocers in 1480). Attaining the livery was also tied to wealth. Although unrecorded, it had to be more than the £100 required for keeping a shop.⁵⁴ Smaller guilds and artisan crafts no doubt required much less, but the principle remained the same; accruing capital was necessary for advancement.

London's orphans emerged from minority with these sums intact and, what is important for the city economy, is that it was not just eldest sons who held these valuable cash sums, but younger sons and daughters too. Patrimonies could set young people going into business up for life and the equitable distribution of inheritance ensured a wider base of new adults with capital. Pulling them into city guilds at an early age meant that a small, but nonetheless important, percentage of healthy, local youngsters could bring good steady capital into the company at entry level; the inheritance provided the means to progress quickly to the benefit of that guild and, if a young man did well, and also married well, this assisted the big

⁵³ Hovland found that of, apprentice cohorts dated between 1309 and 1515, an average of around 50% came from outside of London. Hovland, *Apprentices*, 64

⁵⁴ Sutton, 'Serious Money', 116-7

mercantile guilds to retain their monopoly on the elite positions of civic government. To this end, the fatherless children of the city were not just a valuable source of credit for London crafts and guilds, they were the lifeblood of its future.

9.3 A SOCIAL BOOST

The real estate collateral and capital injections that a wardship could bring not only provided economic advantage. In the upwardly mobile world of mercantile London, wardships brought social status, and, in the hands of the ambitious, the immediacy of a capital patrimony, income from property or the value of a marriage, could provide a significant boost to a planned life of wealth and/or civic prestige.

PROFESSIONAL AND CIVIC AMBITION

As Anne Sutton has established, considerable money was needed for any London citizen setting out on a path to civic prestige, be it as a member of the city governing body or as a prominent master of a guild or company.⁵⁵

The financial value of patrimonies, outlined above, illustrates clearly how attractive taking on a wardship might be for a young citizen, newly qualified in his trade and looking to boost his status, and capital, with the use of a patrimony. Better still, if he married an heiress, her inheritance came with her for life. But the canny young Londoner knew to go one step further and marry a widow, with a dower *and* underage children. Under London's inheritance and wardship customs, that meant that two-thirds of the deceased husband's estate came under the direct control of the newly married man on top of any legacies of her own that the widow brought with her. John Sely, the skinner who married Sibil Gillingham-

⁵⁵ On top of the sums for progressing within a company cited above, it was stipulated in 1468–9, that £1000 worth of goods was required to stand for election as an alderman. Sutton, 'Serious Money', 116. *CLBL*, 85

Laurence-Cauntebrigge around 1366, went on to become the alderman of Bread Street ward in 1379 and then Walbrook in 1382 and 1384 as well as holding the office of city sheriff in 1382-3. Sibil's likely inheritance from her brother, her dowry, dower, estates from two husbands and the fortunes of her four children, even if as a couple they were removed from the guardianship of the elder ones, may have proved a strong incentive to marriage.⁵⁶

George Irlond is another impressive example of this social (and economic, for the Grocers' company) benefit. Irlond entered the freedom of the city in the Grocers' company in 1452, at the age of twenty-seven.⁵⁷ Just four years later, he married Margaret Hawkyn, daughter of the grocer, alderman and future mayor, Richard Lee, and widow of fellow grocer, Thomas Hawkyn.⁵⁸ Hawkyn had left an inheritance of £1,400, plus several hundred pounds worth of goods, chattels and jewellery, to his four children, of which Irlond took direct control as their stepfather and guardian.⁵⁹ Assuming that the value of Margaret's dower was the same, this set a very young grocer up with a colossal £3,000 or so worth of capital with which to start up his business. It must have stood him in good stead.⁶⁰ At the age of thirty-six, Irlond became the alderman of Aldgate, and then very quickly thereafter, Cordwainer ward, where he remained until his death. He was elected sheriff within a year of taking on an attaining aldermanic status (1461), sat as a member of parliament for the city in 1469 and 1472 and

⁵⁶ Beaven, 46, 217, 395. Sibil was married to her first husband by 1349 and must have been well into her thirties by the time she married John. See Chapter 5.

⁵⁷ He is recorded as being forty-four years of age in 1469. *History of Parliament: Registers, 1439–1509*, 372

⁵⁸ *CLBK*, 379

⁵⁹ Hawykn's will, dated 1455. PROB 11/4/34

⁶⁰ It is known that Irlond held the patrimony of the Hawkyn children for at least nine years. At two shillings in the pound per year, that would have yielded him at least £1,260 as his share of the profits on top of the capital sum. *CLBK*, 379, 380, 391

was knighted in 1471. He died aged forty-seven in September 1473, leaving two underage sons of his own and substantial property in Surrey.⁶¹

Not all ambitious young men could count on such sums, but even a few hundred marks could be a welcome boost to a career. It is no coincidence that the six men under suspicion of having acted in their own interests when marrying off their underage wards in the 1360s and 1370s were all aiming for, or maintaining the position of, alderman. The attraction of wardship inheritances as a status and capital boost continued into the fifteenth century, albeit it with a little more civic management and transparency. Of the forty-two fifteenth-century aldermen identified by Sutton as having married heiresses or widows, sixteen are recorded as having taken on wardships with a patrimony subsequently placed at their disposal.⁶² The grocers Henry Halton and John Welles even benefitted from marriage to the same woman. When Halton married Margery, the widow of stockfishmonger John Osborn, in 1403, he gained her dower and the use of 200 marks belonging to her infant son, William.⁶³ He became an alderman in 1407, sheriff in the same year, MP for London in 1410 and died in 1415.⁶⁴ Margery married John Welles, another grocer, within weeks of Halton's death

⁶¹ On the positive impact of civic office to a merchant's business, see M.K. James, 'A London Merchant of the Fourteenth Century', *Economic History Review*, 8, no.3 (1956), 364–76. Thrupp, 350; *History of Parliament: Registers, 1439–1509*, 372, 414; Beaven, 10, 114, 272, 273

⁶² This is likely an underestimation, given that not all such wardships made it into the city records. Sutton, 'Serious Money', 134–5. From her list, the following aldermen held wardships: W. Askham, *CLBH*, 424; W. Cambridge, *CLBI*, 126; R. Chawry, *CLBL*, 317; H. Frowyk, *CLBI*, 266; J. Gedney, *CLBK*, 84; H. Halton, *CLBI*, 26; G. Irlond, *CLBK*, 379; R. Large, *CLBK*, 63; P. Malpas, *CLBI*, 256; W. Parker, *CLBL*, 56; W. Purchase, *CLBL*, 63; W. Reynwell, *CLBI*, 81; J. Stokker, *CLBK*, 372; R. Verney, *CLBK*, 329; J. Wakele, *CLBH*, 179; J. Welles, *CLBH*, 179; In addition, both R. Astry and R. Rivell are known to have taken on the wardships of the children of Margret Astry, whom they both married. See below.

⁶³ William did not come of age until 1425. *CLBI*, 26

⁶⁴ Broad Street ward and then Longbourn ward. Beaven, 79, 167, 271. *Wardens Grocers' Company*, ed. Grantham, 9–10, *CWCH* ii., 408; *The History of Parliament: The House of Commons 1386–1421*, ed. J.S. Roskell, L. Clark. and L.C. Rawcliffe, 4 vols (1993), iii. 273–5

bringing William's 200 marks patrimony and another £1,500 from her dower and the patrimony of her six children with Halton.⁶⁵ John Welles too went on to become an eminent grocer, alderman, sheriff, mayor and MP.⁶⁶

The city did, however, begin to exercise some care and control by this time. In 1425, the court of aldermen refused to allow Hugh Wiche to marry Denise Beaumont, then a ward of the draper, Philip Malpas.⁶⁷ Perhaps she was still too young. Wiche missed out on her £20 inheritance but did not dwell on his early misfortune. He went on to marry three times, one heiress and two widows, and attained aldermanic status in 1458.⁶⁸ Similarly, the alderman John Gedney was granted the guardianship of John Wodecock in October 1428 but in February 1429, it was decided that the boy and all the lands and tenements belonging to him should be in the custody of the chamber and nowhere else.⁶⁹ Nevertheless, the practice persisted: good marriages, with the promise of social and financial benefit, were of such importance that business-like seekers of these opportunities were even prepared to pay a percentage of dowries on commission to a broker.⁷⁰

THE WEALTH OF WIDOWS

It was not just men who could use wardships to their social advantage. The orphan Margaret Staundon, daughter of Richard Staundon, coffrer, attracted the attentions of the mercer

⁶⁵ *History of Parliament*, ed. Roskell, Clark and Rawcliffe, 1386-142, ii. 275

⁶⁶ Beaven, 100, 168, 271, 299; *CWCH* ii. 499

⁶⁷ *CLBI*, 256; Jor 2 f. 51r

⁶⁸ His second wife was the orphan Johanna Wodecok who had endowed her first husband, Robert Colbrook with a £200 inheritance, in 1416. *CLBI*, 153, *CPMR* 1413-37, 47; Thrupp, 375

⁶⁹ Jor. 2, f. 122r, 130v

⁷⁰ Thrupp, 105-6

Adam Wymundham and married him, aged fifteen in 1353 with a patrimony of £20.⁷¹

Wyndmundham had entered the Mercers' company sometime around 1350 and was elected sheriff of the city in 1368.⁷² He was a good match for the daughter of a chest maker. But by the time of her death in 1400 at the age of sixty-two, Margaret had married the knight, Sir John Bradford and borne him at least one son. Thomas Wilford, the alderman, was appointed to oversee her will in which she left substantial properties across four London parishes to her son and for pious uses.⁷³ Margaret started out as a single woman who may have had a good choice made for her in the first instance, or perhaps she married for love: she chose to be buried next to Adam in spite of her higher-status second marriage. But there were other women for whom remarriage might have presented opportunity, as a path to accumulated wealth and attainment of social standing.

Unsurprisingly, given that they were heavily in the majority as guardians, the mothers of underage children, or stepchildren, with a good patrimony, could use a wardship to their advantage as well as any man. Widows, unlike daughters, had a choice.⁷⁴ If they had the means to live comfortably without remarrying (and there was nothing to stop them using their children's inheritance, or income and profits from it, as a financial prop as long as they too provided the child with the full sum at coming of age or marriage) then they need never again enter the marriage market. The large numbers of testamentary mother-guardians who never appeared in the civic records with second husbands is some evidence that this option

⁷¹ Margaret had been under the guardianship of her brother Thomas Staundone, another coffrer from the age of twelve. *CLBF*, 224

⁷² Sutton, 'The Mercery Trade', 411, Barron, *LLMA*, 333

⁷³ *CWCH* ii. 247

⁷⁴ See J. Rosenthal, 'Fifteenth Century Widows', 34–5, *Medieval London Widows*, ed. Barron and Sutton, xxiii–xxviii

may not have been an uncommon one.⁷⁵ If economic necessity drove remarriage, or the thought of widowhood was not to the individual taste, then at least this time a woman, as a widow, might have some choice over who to accept. For some, this presented the opportunity of social advancement.

Turning around the example above, Margery Osborn-Halton-Welles married up from a relatively obscure stockfishmonger to successful grocer and aldermen, finally experiencing dizzy social heights as the wife of a London mayor.⁷⁶ Juliana Beaumont, daughter of the wealthy chaundler, John Beaumont, married the grocer William Middelton as her first husband but before his will was even proved and enrolled, had married the ambitious young draper, Philip Malpas.⁷⁷ They took on the wardship of both her young sisters (and their share of the Beaumont fortune) engineering, or attempting to engineer, good marriages for both girls at a young age.⁷⁸ Juliana saw her husband become an alderman and a successful merchant, they gained estates in Essex and had two daughters, both of whom married knights.⁷⁹ Dame Johanna Large, who notoriously revoked her vowess status in order to marry the alderman John Gedney, was four times married to older men, increasing her wealth with each widowhood. The cash legacies of £400 in the will of her second husband, Richard Turnaunt, a fuller, were minor in comparison to the 4,000 marks she received from

⁷⁵ See Figure 4.1, Chapter 4

⁷⁶ John Welles held the mayoralty in 1431–2. Barron *LLMA*, 340

⁷⁷ Middelton's will was written in November 1419, but not enrolled until January 1422. Malpas and Juliana were married by August 1421. Malpas was one of the citizens who stood accused in the usury trials in London in 1421, the same year that he married Juliana and took on her sisters' inheritances. *CLBI*, 256; Seabourne, 'Controlling Commercial Morality', 120 *fn.* 136

⁷⁸ Beaumont enrolled two wills in the husting court. He held an estate outside the city in Chelmsford, entailed to his son Richard. Denise was refused permission to marry Henry Wiche, the future alderman in 1425 and her sister Margaret was fined for marrying John Everard without permission. Jor. 2 f. 19r, 51r. *CWCH* ii. 426

⁷⁹ Malpas's will was enrolled in the PCC in 1469. Juliana had predeceased him. PCC PROB 11/5/419

the estate of her third husband, the mercer Richard Large, supplemented by her guardianship of the £1,000 inheritance of Large's three sons. Even with this wealth behind her, risking social and ecclesiastical censure in then revoking her vowess status to marry John Gedney could only have been justified by some significant temptation. If it was not love, then perhaps Gedney's considerably greater fortune turned her head from her ecclesiastically sanctioned, and very public, pledge. At her death in 1462, a considerable portion of her estate was devised upon her two-year-old granddaughter, Thomasina Turnaunt, whose father, Johanna's only surviving son, was instructed to give security in the mayor's court. If he did so, it was never recorded.⁸⁰

Indeed, some widows and mothers married again with such unseemly haste that marital or social advantage presents the most feasible motive. The grocer, Robert de Hatfeld's will was enrolled in May 1381 and by mid-July, his widow, Johanna, was back in court seeking a transfer of guardianship of their son, Robert, to her new husband, John de Chynkeford, another grocer.⁸¹ In 1414, in spite of having a fifteen-week-old baby and three other children under ten, Anne, the widow of grocer John Stapleford, wasted no time in remarrying William Cauntebrigge, another grocer.⁸² The marriage was so hasty that Cauntebrigge was forced to bind himself to another grocer, William Sevenoake for four months, the "recognizance to be void if the said William and Anne his wife execute properly their duties as guardians of the four children".⁸³ The £700 she brought to the marriage

⁸⁰ Erler, 'Three Fifteenth Century Vowesses,' 174–5

⁸¹ *CWCH* ii. 223, *CLBH*, 165

⁸² John Stapleford wrote his will in May 1413 and it was proved and enrolled 11 June 1414. At practically the same time, Cauntebrigge took custody of the four Stapleford children having married Anne. *CWCH* ii. 405; *CLBI*, 126

⁸³ *CLB I*, 129

probably helped elevate this second husband to aldermanic status within a year, and to the mayoralty within another five.⁸⁴

Perhaps the most outstanding instance of a woman accumulating wealth and status through re-marriage and the effective use of wardships, is the example of five-times married Cecily Pikeman. Cecily was the only surviving child of the troubled fishmonger, Andrew Pikeman who found immortality in *Liber Albus* as the guardian who had attempted to marry off his five-year-old ward and stepdaughter in 1363.⁸⁵ Her first husband was the draper John Derham with whom she had, at his death in 1359, four children. Derham's will was written on 2 October 1359 and enrolled in early January 1360. It stipulated that Cecily was to have custody of their children so long as she and any future husband found security at the Guildhall for paying back the children's inheritances at their coming of age.⁸⁶ Widowhood clearly did not suit Cecily from the start. On 10 March 1360, she appeared before the court with her new husband, the chaundler/drapeer John de Hatfield.⁸⁷ Hatfield had already been married twice and had an adult son, John known as "Montagu" and two younger children, Denise and Thomas. He did not survive long and died around April 1363, leaving Cecily as the guardian of Thomas and his substantial property inheritance, and of Cecily's own surviving daughter, Juliana.⁸⁸ Interestingly, Hatfield did not make Cecily the guardian of his thirteen-year-old daughter, Denise, or, at least, not of her inheritance. That responsibility was devised to his neighbour Robert Kyng, who was to maintain her patrimony until she reached sixteen. It is probable, however, that the girl resided with her stepmother and that Cecily was instrumental in engineering the girl's marriage, a matter of months after her

⁸⁴ Beaven, 23, 162

⁸⁵ See Chapter 5.

⁸⁶ *CWCH* ii. 12

⁸⁷ *CLBG*, 120

⁸⁸ *CWCH* ii. 79, 81; *CLBG*, 157

father's death, at the age of fourteen, to their wealthy neighbour, Richard Claveryng.⁸⁹ By 1365, Cecily had married again, to John Sexlyngham who took on guardianship of young Thomas, but by the time the boy came of age in 1376, Cecily was recorded as the wife of Hugh de Staundone.⁹⁰ Finally, with the dowers from four deceased husbands, and some share in the patrimonies of four children and two step-children behind her, Cecily married John Sibille sometime between 1377 and 1387. She bore him a daughter, Margaret, who became the sole heir to her, and her father's, fortune.⁹¹ If Cecily, with her father standing behind her, had had dreams elevating the Pikeman family to higher levels of society, then fate contrived against her. Her only surviving child, Margaret Sibille, although a substantial heiress, died, underage and unmarried herself, before 1401, and Cecily and Andrew Pikeman's amassed fortunes passed into the hands of the child's father and half-brothers.⁹²

As a footnote to the epic life of her stepmother, Denise Hatfeld, who was married at the age of fourteen to Richard Claverynge, managed three good marriages herself. Claveryng died in 1375 when she was still only twenty-five.⁹³ By 1382, she had married Richard Hatfield.⁹⁴

⁸⁹ Robert Kyng comes across as somewhat oblivious to the marriage when Claveryng makes claim to Denise's inheritance. This was just at the time her father was attempting to marry his stepdaughter to Giles Pikeman. Cecily and Andrew Pikeman may also have contrived to marry Cecily's youngest daughter by Dereham to John Wyrhale, See Chapter 5. *CLBG*, 181

⁹⁰ *CLBG*, 200

⁹¹ Cecily is mentioned as John Sibille's wife in her father, Andrew Pikeman's will. It is possible that her only known son John Derham, aka Pykeman, survived but became a clergyman. *CWCH* ii. 293 and PCC PROB 11/1/41. Chapter 5.

⁹² Andrew Pikeman purchased lands in Bromley, Kent and left bequests to godchildren there, although he requested burial in St Botolph, Billingsgate. PCC PROB 11/1/41. See also the will of John Sibille, PCC PROB 11/2A/511/2B/1 and PROB 11/2B/1

⁹³ *CWCH* ii. 179

⁹⁴ Hatfield held the wardship of John Nortone, too. He had acted as surety for Katherine, John's mother and guardian, but probably took control of the inheritance after John Welde, to whom the guardianship had been devised alongside Katherine, refused it. He rendered the account for it in 1389 [cont.]

Finally, in 1407, she was mentioned in the will of Richard Odyham, as the wife of his fellow grocer, John Olneye.⁹⁵

KEEPING IT IN THE FAMILY

For others, the benefits of the London wardship custom provided, not the means to gain wealth and civic prestige, but the means to maintain them. The de Coventre family, their propertied interests in three of the most profitable buildings in the heart of London's mercery, and their careful use of the city's wardship privileges to retain control of inheritances, provide a detailed example of this.

Henry de Coventre [2]⁹⁶ was a powerful and successful man. Although a vintner by profession, in 1260 he chose to invest his profits wisely, selecting two of the long-term bulwarks of London wealth and prosperity: real estate and the mercery trade. The latter was rising to ascendancy at the time, to the effect that a small, but commercially critical, area between St Mary le Bow and St Pancras had become established as The Mercery: a place where Londoners could buy and sell the prolific output of the city's traders.⁹⁷

after twelve years *CLBH*, 15, 75. Hatfield is described as one of the richest grocers in the company by the 1380s, when he was warden. Nightingale, *Mercantile Community*, 328; *Wardens Grocers' Company*, ed. Grantham, 7

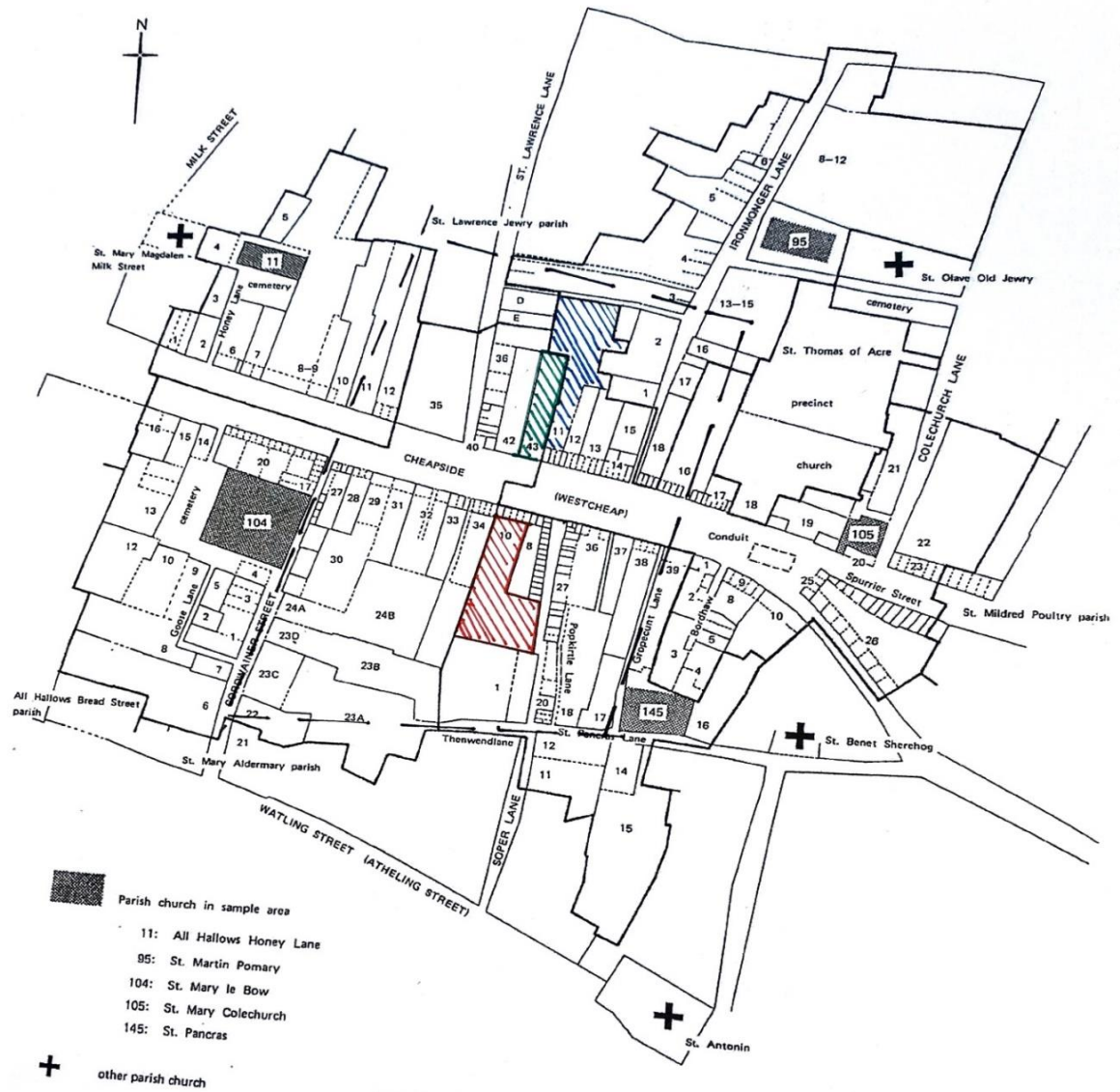
⁹⁵ Odyham instructed the feoffees of his houses in the parish of St Alban de Wodestret to convey a life estate in the same to Denise, wife of John Olneye, grocer. Nightingale notes that Richard Hatfield, Denise's second husband, was also known as Odiham. It might be assumed that this Richard was his/their son. See also the will of Richard Stace. *CWCH* ii. 373, 479. Nightingale, *Mercantile Community*, 328

⁹⁶ Numbers refer to the family tree in Figure 9.7

⁹⁷ Sutton, Anne, "The Mercery Trade", 221

9: Orphans as a Commodity

FIGURE 9-6: MAP SHOWING THE MERCERY OF LONDON, C. 1300



The approximate area of the Mercery is indicated by a black dashed line. Property number 10 was the Great Seld (**in red**); number 43 to the north was Le Cage (**in green**) and number 11, adjoining but in the parish of St Mary Colechurch, was The Hart (**in blue**)

Source: Map; Keene, 'Shops and Shopping', 30; Locations: Keene and Harding, *Gazetteer*, 397-401, 691-704

The area bordered Cheapside on its north side and constituted a plethora of small shops, behind which lay the selds, long covered markets or bazaars where traders would rent

space to sell from a chest or a stall.⁹⁸ They were known by their names, or their signs, and their value, for income and as collateral, was substantial. Henry died in 1281, but his widow Dame Rose [3] managed the seld for another thirty- seven years. Latterly, her son Stephen [5] had managed it with her.

When Stephen predeceased Rose in 1310, he left his two sons, Edmund and Thomas, in her custody, with instructions that they were only to pass into the care of their own mother upon Rose's death.⁹⁹ This was done to protect the interests in the seld for Edmund, who had the reversion of the 'painted' Seld, after Rose's death.¹⁰⁰ Edmund was still underage when his grandmother died in 1317, but, following the terms of his father's will he and his inheritance passed into the care of his mother and Sir John Douvdale, her new husband, who managed the properties on his behalf and passed them to him when he came of age.

Edmund's successes with the famous seld did not match his grandmother's and the family temporarily lost the greater part of possession until, between 1362–4, Edmund's son, Henry fought a protracted battle to bring it back under the Coventre name. But Henry too left an underage heir, John [13].

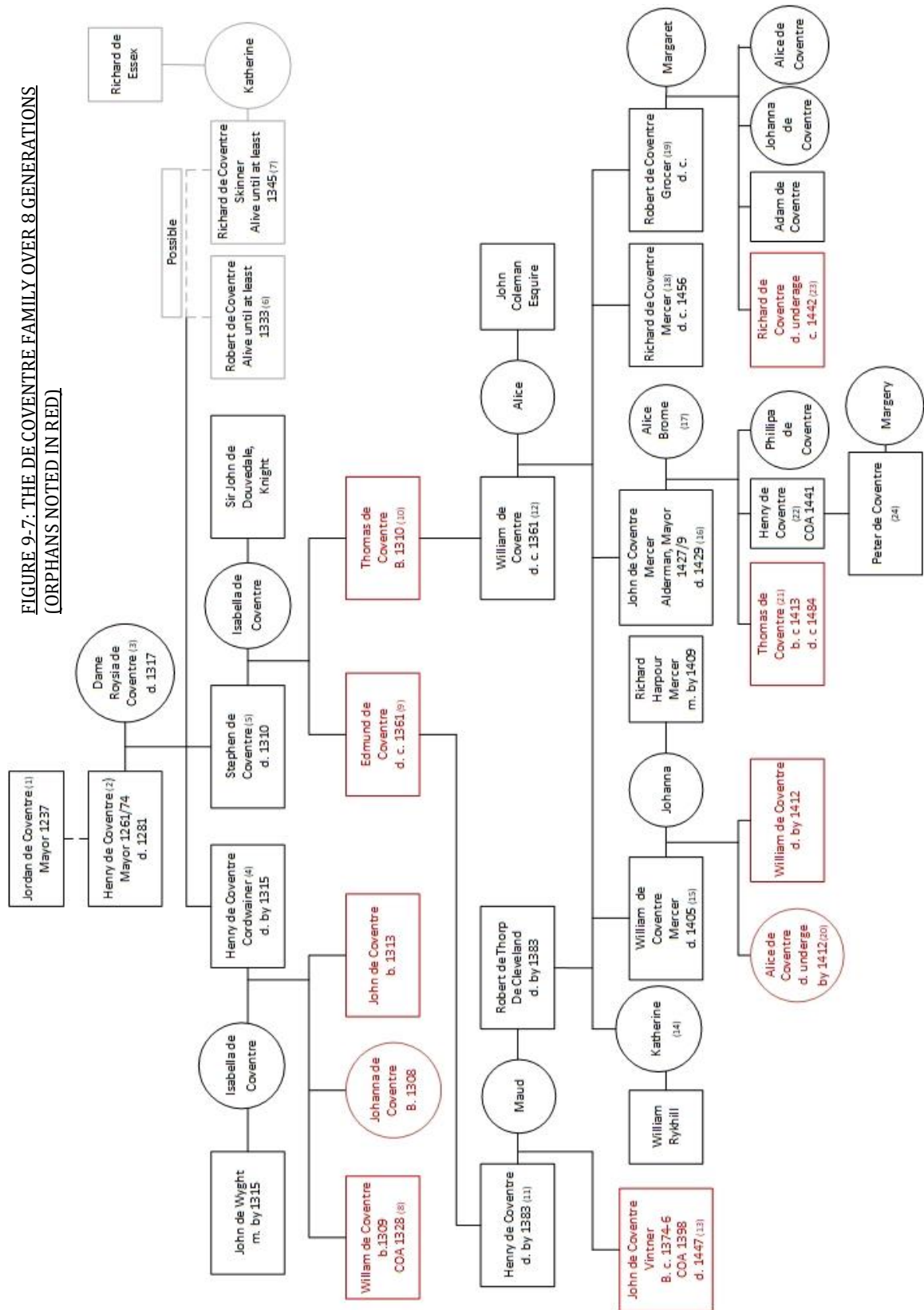
When John's mother re-married in 1383, to a Yorkshireman, the family interests in the seld seemed in peril. John was barely seven years old and she was moving north; but a solution was found. She left the boy in London and granted all her husband's city properties, and the

⁹⁸ These are described in some detail in D. Keene, 'Shops and Shopping in Medieval London', in 'Medieval, Art, Architecture and Archaeology in London', ed. L. Grant, *British Archaeological Association Conference Transactions*, 10 (1990), 38–40

⁹⁹ *CWCH* i. 213

¹⁰⁰ Known as the Painted Seld in its early days; the Great Seld and latterly, the Broad Seld. Keen and Harding, *Gazetteer*, 691–704; *CLBE*, 77

FIGURE 9-7: THE DE COVENTRE FAMILY OVER 8 GENERATIONS
[ORPHANS NOTED IN RED]



Coventre Family: Notes

1. Jorden de Coventre. Barron, *LLMA*, 314
2. Henry de Coventre, vintner. Alderman of Vintry Ward 1263-1281. Died 1282. Beaven, 374 Barron *LLMA*, 320, His will enrolled 1283, *CWCH* i, 62
3. Roysia de Coventre. Died 1317. Her will enrolled in 1318, *CWCH* i, 275
4. Henry de Coventre, cordwainer. Died 1313, will enrolled Oct 1313. Widow Isabella remarried and her husband took on custody of the 3 children. *CWCH* i, 241 *CLBE*, 57
5. Stephen de Coventre. Will enrolled in 1310. *CWCH* i, 213
6. Robert de Coventre, mentioned as a foot soldier in the city in 1318 with his brother, Richard. Alive in 1333 when he rented property in the parish of St Mary le Bow. *CLBE*, 96; Keane and Harding, *Gazetteer*, 283-293. May or may not have been a son of Henry and Roysia.
7. Richard de Coventre, skinner. *CLBF*, 18. Possibly the father of Richard Coventre, the skinner who died in 1406 and had a will enrolled in the archdeaconry court. The younger Richard was of the parish of St Ewan, left a widow called Maud and requested burial in the Greyfriars Church next to the image of St Christopher. R. Wood, 'Life and Death', 246; Kingsford, C.L., ed., *Additional Material for the History of the Grey Friars, London*, (Manchester, 1922), 85. May or may not have been a son of Henry and Roysia.
8. William de Coventre. Came of age in 1328 aged 19 years. *CLBE*, 57
9. Edmund de Coventre. *CLBE*, 77. Keane and Harding, *Gazetteer*, 691-704
10. Thomas de Coventre. Unborn when his father wrote his will. Entered wardship of stepfather in 1317. *CLBE*, 77
11. Henry de Coventre. Entered into dispute over the Seld 1362-4. Keane and Harding, *Gazetteer*, 691-704
12. William de Coventre, pinner/mercier. Became a citizen in 1367 as a pinner. Warden of the Pinners Company 1371/2, 1378/9, 1381. Paid 20s in 1401 to join the Mercers. Married twice, latterly to Alice who thereafter married John Coleman esq. Will enrolled 1407. *CLBI*, 15; Keane and Harding *Gazetteer*, 397-401; *CWCH* ii, 374; Thrupp, 335. Megson, 'Pinners and Wire drawers', xv
13. John de Coventre, vintner. Keane and Harding, *Gazetteer*, 691-704.
14. Katherine de Coventre. Mentioned in her brother John's will but not her father's, suggesting she may not have been born when he died. By 1429 she was married to William Rykhill, son of Sir William Rykhill [d. 1407], who held property in St Mary Colechurch and St Mary le Bow. In 1429, she was listed alongside her brothers as heir to St Mary le Bow tenements. Thrupp, 335. Keane and Harding, *Gazetteer*, 244-251, 475-485
15. William de Coventre, mercier. Died 1405, will enrolled in archdeaconry court of London. GL MS9051/1 ff. 2-2v. See also R. Wood, 'Life and Death', 159, 248.
16. John de Coventre, mercier. Alderman of Aldgate ward 1420-29 [mayor 1425-6]. Guardian to nephew William. Will held in Chichele Register vol 2. Will Beaven, 10, *CLBI*, 84; Jacob, E.F., ed. *The Register of Henry Chichele, Archbishop of Canterbury, 1414-1443*, vol 2. (1943), 402-6
17. Alice Brome. Died 1433 – buried with a monument in the parish church of St Dunstan in the East. Stow, *Survey*, i, 134.
18. Richard de Coventre, mercier. Tenant of Le Cage in St Mary le Bow in 1430. Died 1438, will enrolled in the commissary court of London. *CLBK*, 107; Fitch *Commissary Court*, 53;
19. Robert de Coventre, grocer. Died c. 1439.
20. Alice de Coventre. Guardianship committed to her stepfather, Richard Harpour, mercier, who her mother married in 1409. Died 1412, still underage. *CLBI*, 76-77
21. William de Coventre. Guardianship committed to paternal grandmother, Alice and husband John Coleman, Esquire. Upon Coleman's death, his guardianship and patrimony passed to his uncle, John Coventre [no. 16] *CLBI*, 82, 84
22. Thomas de Coventre. Patrimony from the inheritance of Le Cage and guardianship granted to his uncle, Richard de Coventre [no. 18]. Sent to Gray's Inn to be instructed by Richard Hungate in 1432 aged 19. Came of age in 1434. Still alive in 1484. *CLBK*, 105, 107, 115, 143. Keane and Harding, *Gazetteer*, 397-401
23. Henry de Coventre. On father's death, entered into guardianship of Sir William Estfield, mercier, to whom he may have been apprenticed. Came of age 1441. *CLBK*, 259, [or 3 f. 99v-100r
24. Henry de Coventre, Gentleman In 1438, the feofees of Richard Coventre's property, the Hart, in St Mary Colechurch changed – coinciding with the death of Richard and the inheritance of Henry, his son. Henry certainly held the Hart by 1455 when he used it to secure a loan. He sold it in 1456. Keane and Harding *Gazetteer*, 456-461.
25. Richard de Coventre Possibly apprenticed to Robert Large, mercier. Died while still under the age of majority in 1442, but left a will. Fitch, *Commissary Court*, 53, *CLBK*, 273
26. Alice de Coventre. Although her mother was still alive, Alice was committed to the guardianship of Robert Shirbourne, draper in 1439. *CLBK*, 224.
27. Peter de Coventre. Gentleman. Inherited Le Cage in 1488 from a Henry Coventre. He was probably the son of Henry [23], Thomas's brother, but might also have been the son of Thomas's cousin, Henry [24] who also styled himself 'gentleman'. Keane and Harding, *Gazetteer*, 397-401

guardianship and marriage of her son to the vintner, William Shappyng, to whom the young John was then apprenticed.¹⁰¹ Shappyng managed tenancies in the Seld on John's behalf until his death and, in 1398, Floria, his widow and executrix, granted John his inheritance and the mercery property fell back into Coventre hands.¹⁰² Perhaps because of the Great Seld passing down the line of the eldest Coventre sons, William de Coventre [12], son of Thomas, Edmund's younger brother, entered the freedom of the city in 1367 as a pinner, with no discernible propertied patrimony to uplift him.¹⁰³ Perhaps he inherited instead some of the spirit of his great-grandmother for, by 1401, he had petitioned the mayor to change his trade affinity to that of the Mercers, declaring that

for a long time past he had been using, and still used, the mistery of Mercers, ... as the Masters of the mistery of Mercers testify. He prayed, therefore, that he might be admitted to the freedom of the City in the mistery of Mercers". His prayer was granted "at the instance of many good men of the said mistery."¹⁰⁴

William's interests in the mercery did not stop there. Mirroring his great-grandfather, he invested heavily in the area of that name, becoming, in 1360, the sole owner of two substantial properties known as 'Le Cage' and 'The Hart'.¹⁰⁵ Just as the Great Seld sustained

¹⁰¹ Interestingly, there is no record of any of this in the city records. It is only in the husting deed rolls, that the transfer of the property is recorded.

¹⁰² John Coventre, a vintner, finally sold the property to William Norton in 1402. Keene and Harding, *Gazetteer* 691–704

¹⁰³ William de Coventre was warden of the Pinners' company in 1371/2, 1378/9 and 1381 and probably changed his affiliation to the Mercers' company in order to run for civic office, should the opportunity arise. *The Pinners' and Wiresellers' Book, 1462–1511*, ed. B. Megson (London Record Society, 2009), xv

¹⁰⁴ All of William's sons also became prominent mercers, although Robert was known as both a mercer and a grocer. *CLBI*, 15

¹⁰⁵ Keane and Harding *Gazetteer*, 397–401

one branch of the family in the thirteenth and fourteenth centuries, so these two properties would sustain the Coventre fortunes throughout the fifteenth. Once again, the wardship rights of London were carefully used to protect the inheritance, income and profits of the two properties for the benefit of the family through four generations.

William's eldest son, also William [15], predeceased him, leaving two young children, Alice [20] and the youngest William [21].¹⁰⁶ What inheritance the middle William was able to pass to his children remained in the control of the family. Alice [20] was given into the guardianship of her mother and, in 1409, her new stepfather, but a condition was placed that, should she die, her inheritance was to be split between her mother and her uncle, John Coventre [16].¹⁰⁷ At his mother's remarriage, her brother, the youngest William [21], was placed in the guardianship of his maternal grandmother, Alice, and her new husband John Coleman, until 1416 when Coleman died. Immediately afterwards, the youngest William was placed in the guardianship of his uncle, John Coventre [16], although he too probably died underage with his inheritance reverting back to the family.¹⁰⁸ The middle William's death [15] before his father meant that when the eldest William [12] died in 1407, Le Cage and The Hart passed to his next two sons respectively, John Coventre [16] and Richard Coventre [18]. John, perhaps boosted by this careful control of the family fortunes, rose to prominence and held the aldermanry of Aldgate ward from 1420–29 and the mayoralty in 1425–6.¹⁰⁹ The Coventre tradition of keeping guardianships in the family without recourse to city intervention, or records, was such that, when John died in 1429, an inquisition

¹⁰⁶ Died 1405, will enrolled in archdeaconry court. GL MS 9051/1 ff. 2r–2v

¹⁰⁷ Alice had died, still underage, by 1412, and this condition came into effect. *CLBI*, 76, 77

¹⁰⁸ There is no mention of him thereafter. *CLBI*, 82, 84

¹⁰⁹ He was also an executor to Richard Whittington. See Barron, C.M., 'Richard Whittington: The Man Behind the Myth' in A. Hollaender and W. Kellaway eds., *Studies in London History Presented to P.E. Jones* (London, 1969), 198

needed to be held to determine his exact property holdings and his heir. It is perhaps indicative of the tight-knit nature of the family that his second cousin, the other John Coventre, descended from Edmund's line [13] was one of the inquisitors. Le Cage, a property valued at 21 marks per annum, was determined as the alderman John Coventre's principal legacy and his son, Thomas Coventre [22] as his heir.¹¹⁰ Thomas was underage, but familial protection surfaced once again. Richard [18], the boy's uncle, was found to be a tenant of Le Cage and, in 1429, £400 in respect of the property and the guardianship of the boy was granted to him.¹¹¹ Young Thomas benefited; in 1432, 20 marks of this patrimony was released to him to be tutored in a legal education at Grey's Inn by Richard Hungate.¹¹² Thomas Coventre [22] came of age in 1434 and maintained the property for another fifty years.¹¹³ Richard Coventre [18] meanwhile, as well as benefiting from Thomas's £400 inheritance, also held the property known as The Hart, from his father. All of this was enough for his son Henry [24] to style himself gentleman when, having inherited The Hart himself around 1438, he granted a lease for the tenement to Richard Kyrkeby, citizen and grocer, for a term of twelve years at £8 13s. 4d. rent.¹¹⁴

London's wardship practice enabled the patriarch Henry de Coventre's heirs to maintain a presence amongst the city elite throughout eight generations. They ensured that the management of core Coventre wealth never went outside the family, even during the

¹¹⁰ *CLBK*, 105, 107

¹¹¹ *CLBK*, 115

¹¹² *CLBK*, 143

¹¹³ He paid rent on the property to Canterbury Cathedral Priory from 1450–84. When he died, it passed to Peter Coventre, gentleman, [27] who was either the son of Thomas's younger brother Henry [23] or his cousin of the same name [24] and remained in the family hands until at least 1515. Keene and Harding, *Gazetteer*, 397–401; *CLBK*, 115

¹¹⁴ Keene and Harding, *Gazetteer*, 456–461

minority of their orphaned children, and that it provided capital and real estate collateral to back the successful professional and civic careers of a number of Coventre sons.¹¹⁵

9.4 “FOR THE GOOD OF THE SOUL”

There is little doubt that Londoners’ strongest motives for developing and establishing its wardship custom derived from the value of readily available credit, the protection of socio-political privileges and the trade skills and economic benefits that went with them.

However, the medieval layman was bound as much by his obligation to his soul and to God as he was to his earthly aspirations. The spiritual and the secular were completely permeable in the psyche of the time and therefore the question can be asked: within the structure of a much wider procedure, did spiritual motive play any part in the placing and care of these orphaned children?

LITURGY AND TEACHING

The answer is much harder to find than that for evidence of economic, social and political motive. To the medieval mind, the concept of salvation was omnipresent: everything done in life had repercussions for the soul after death. Londoners lived, worked and died bound by religious ties and communal worship in which liturgy and sermons reinforced the obligation to care for those in need. The seven acts of mercy included a duty to “harbour the harbourless”, often interpreted as giving hospitality to travellers, but perhaps also including those left without a carer. The Old Testament warned against the mistreatment of orphans: “You shall not afflict any widow or fatherless child” (Exodus 22:22); “Oppress not the

¹¹⁵ Even Richard de Coventre [25] who died underage in 1442, having been apprenticed to Robert Large, still left a will, leaving his legacy to his mother, brothers and sisters. *Testamentary Records Commissary Court*, ed. Fitch, 53; *CLBK*, 273

widow, nor the fatherless" (Zechariah:7:10). More importantly, from the perspective of civic accountability, the bible taught that to seek justice for wronged orphans was a work of charity in the eyes of God: "He ensures that orphans and widows receive justice" (Deuteronomy 10:18); "Seek judgement, relieve the oppressed; judge the fatherless, plead for the widow..." (Isiah 1:17); "Defend the poor and fatherless..." (Psalm 82: 3). The biblical exemplar of seeking justice for orphans found its way into the oaths of London's civic officers and at least one city charter, Hereford in 1486, "on helping widows and orphans, bailiffs and stewards, at all times, both in court and out of it, ought to help and keep them."¹¹⁶

G.R. Owst in his seminal work on preaching in late medieval England points to the use of widows and heirs in allegorical stories used in sermons. These served not only to remind the congregations of their spiritual responsibilities to the "harbourless" but also reinforced the benefits that the prayers of these grateful recipients could provide for the soul.¹¹⁷ Sermons which referred to widows and the care of orphans also strove to warn of the spiritual danger to corrupt executors and guardians who sought to abuse those whom they had sworn an oath, before God, to protect.¹¹⁸ The protection of widows and fatherless children was a culturally popular moral obligation and as such, deemed to be a spiritual Good Work.

OATHS AND CHARITY

The execution of that Good Work was thus of paramount importance, not just for the benefit of the city, but for the souls of those who administered these policies. The oaths that civic

¹¹⁶ Bateson, i. 16

¹¹⁷ G. R. Owst, *Preaching in Medieval England* (Cambridge, 1926), 163–4 and [fn.1](#)

¹¹⁸ Owst, *Preaching*, 293

officers swore were not just procedural practice. To the medieval mind, an oath bound one in a permanent promise to God; to break it was to place one's soul in jeopardy. Until the later fifteenth century when orphan patrimonies were supported by financial bonds, oaths and the promises of guardians and sureties, sworn before God, bound the entire process together. Nowhere is the moral and spiritual understanding of the power of the oath more defined than in the fact that most instances of guardians bringing sureties before the mayor and aldermen were not recorded. They did not need to be. The very act of swearing the oath was as binding as any written record.

From the perspective of the guardian and the sureties, swearing the oath of wardship meant some considerable obligation. If guardians died, the sureties became responsible for retrieving the patrimony from executors and for paying out if the guardian absconded or was declared bankrupt. It was a role not undertaken lightly: the city proved effective on numerous occasions in bringing sureties to court to pay orphans their patrimonies when guardians had either absconded or failed to return a capital sum. These guarantors usually undertook the task of providing both financial underwriting and swearing to the good character of the guardian, but occasionally specific oaths to protect the wellbeing of the child were undertaken. In 1429, for example, William Wodeward brought four sureties to court to give security for the inheritance of his ward, Thomas Colrede, but took the unusual step of having his girdler friend, John Lee, give surety against any unauthorised marriage or apprenticeship.¹¹⁹ Similarly, in 1374, Juliana and John Homercolt, mother and stepfather of five-year-old Peter Whapplelode, brought three sureties to court who gave security for the payment of the boy's capital inheritance in the event of John and Juliana "failing to instruct

¹¹⁹ *CLBK*, 93

and maintain the said orphan for a period of seven years and afterwards to put him out as an apprentice.”¹²⁰

Charity was exercised in other ways, especially in times of high mortality. The case of Richard Elys, described in Chapter 5, taken into the care of his family’s neighbour Walter de Chedyngdon after the death of his parents and grandmother, illustrates the bonds of parish care. At the same time, John Stebbeneth, left in the care of his uncle John Frank, was taken on by Frank’s master, Richard Kyssere, and then, following the deaths of both men in the space of two months, Kyssere’s wife Avice.¹²¹ Similarly, William Bernes, fishmonger, in early 1349, left his four children in the care of his brother and his servant, William de Hedrisham. Within a matter of weeks, the uncle, the servant and one of the children had died and the three remaining were given into the care of the rector of the parish in which they lived.¹²² The fraternities and the religious life of these parishes taught that to care for the child of a deceased parishioner, and particularly to take on the formal role of guardian or surety and swear to that care before God, was to fulfil an act of mercy and of charity.

CHARITY AND THE POLICY OF INCLUSION

Much of this thesis, investigating the place of wardship in the mind of London’s late medieval citizens, has been from a civic perspective, but the idea of undertaking a Good Work and following biblical guidance lives at the heart of the practice. Episodes in this narrative point to acts of great philanthropy and charity as well as protection of the custom: mayors and chamberlains taking fatherless children into their own households; the many cases of intervention into abuse, bringing to task those who did not heed the Old Testament

¹²⁰ *CLBH*, 126

¹²¹ *CWCH* i. 536, 568

¹²² Bernes and Hedrisham’s wills were enrolled just two weeks apart. *CWCH* i. 611, 614

principles not to harm the fatherless; Ralph Strode's whole tenure and its attention to all aspects of accountability in wardship.

The city policy was also inclusive. A large part of what is recorded may relate to propertied and wealthy heirs, but *any* child of a London citizen was entitled to the protection of the mayor and aldermen. Poorer citizens whose wills were enrolled in the archdeaconry court, who devised wardships and instructed guardians to bring surety before the court of aldermen, knew that the protection of that body was absolute, even if the lack of land or substantial capital meant that guardianship did not warrant enrolment in civic records.

Under burgage tenure, a borough citizen had the right to devise property to whomsoever he wished, and illegitimacy usually proved no barrier to equal or partial inheritances for minors. In 1317, the mayor enforced the payment of a devised inheritance to an illegitimate child, and in 1325, when the mercer Henry Burel willed an equal inheritance and guardianship provision for his two sons, both called John, one legitimate and the other not, the city promptly confirmed it.¹²³ The meticulous care meted out to the young Alice Reyner, as recorded in the account rendered by her guardian in 1375, suggests that illegitimate children were afforded the same nurturing attention by a guardian.¹²⁴ The protracted case of Oliver de Acres, only brought to a conclusion by the meticulous attention of Ralph Strode a year later, illustrates that an illegitimate child could expect the same due process for the correct execution of their wardship.¹²⁵ Even when mothers remarried, it would seem that

¹²³ Petronilla, widow of William Bokbyndere, came to court and by order of John de Wengrave, the mayor, paid Juliana Hokestere, mother of William's son John, the 20s which William had bequeathed the child. *CLBE*, 76; *CWCH* i. 313; *CLBE*, 199, 212

¹²⁴ The account of her guardian, John Bryan, details sums paid for her board, clothing, education, marriage, a plea in the court of the Bishop of London and even for the attentions of a surgeon to a head injury. *CLBH*, 28, COL/AD/01/008 (Letter Book H), f. 37r

¹²⁵ *CLBG*, 83, 109, 111, 216–7

illegitimate children were treated equally with their legitimate siblings: in 1405, the Letter Books record, with sublime indifference, that the “guardianship of Alice, daughter of John Hardewyk, late haberdasher and of Isabella, bastard daughter of the same...committed to John Frensshe, goldsmith who married Katherine”, their mother.¹²⁶

In 1352, the mayor Adam Fraunceys appointed Simon Iswode, beadle of Fleet Street, as the guardian of the inheritance and person of Isabella de Grantham, the deaf-mute daughter and heiress of Adam de Grantham, until her sister could be found to take her on.¹²⁷ When the scrivener Geoffrey Patrik died in 1372, he left the guardianship of his five children to his wife, Isabella. Following her death in 1396, the city stepped in and secured the ongoing guardianship and care of one daughter, Cecily, an adult but “an idiot of unsound mind.” The mayor and aldermen not only executed due process but showed considerable care in appointing, or approving the appointment, of John Chamberleyn, a chaplain who had been a friend of her father (and his executor) as Cecily’s guardian.¹²⁸

PARISH AND NEIGHBOURHOOD: MEMORY AND COMMEMORATION

The placing of children in guardianship has been examined using case studies in this thesis and has concluded that, in those studies, orphans were nearly always placed with people they would have known, at least in the first instance. Where the demographics of plague wrought havoc in the later fourteenth century, it has been demonstrated that parish, neighbourhood and guild played a part in keeping children, especially young children of a

¹²⁶ *CLBI*, 40; Richard Roke, *CLBE*, 10; Robert Wandlesworth, *CLBF*, 157; William and Thomas Wirlyngworth, *CLBG*, 261; Isabella Betcote, *CLBH*, 35; Katherine Padyngtone, *CWCH* ii. 181; Elizabeth Albon, *CLBH*, 387 and John Evote, *CLBI*, 32, were also illegitimate children under wardship.

¹²⁷ *CLBG*, 2

¹²⁸ *CLBH*, 430

pre-apprenticeship age, in a familiar environment and, wherever possible, within the parish or locale of their birth.

Examination of the wills which lay behind the wardship cases recorded in the city records shows that testamentary guardians were at least the starting point of nearly all guardianships. That the choice was made in life is an important point in considering a father's spiritual motive. If the agents of commemorative strategy were monuments and brasses, obits, chantries and good works, then the *agencies* were the living bodies left behind to enact them. In the psyche of the late medieval layman, it therefore follows that fathers were choosing that their children be brought up and cared for in an environment in which their spiritual memory would be propagated; they were enacting commemoration through the living. That the appointed earthly guardian of the testators' soul, his executor, could often become the appointed guardian of his child is not a coincidence. That mothers and neighbours and fellow parishioners were chosen to bind themselves by oath to the welfare of a child has a significance: if an inanimate tomb or monument could serve to invoke commemoration, what better invocation of memory could be achieved than the corporeal legacy of the deceased, cared for within the physical and spiritual context of the daily life of the parish?

One relationship link that is probably very common, but also very difficult to prove from the sources used in this study, is that of godparent-godchild. Godchildren were often given the same name as a godparent but child naming conventions in the late medieval period were such that it would be naïve to assume that a matching Christian name implied a godparent-god-child relationship.¹²⁹ Nonetheless, godparents played an important spiritual and

¹²⁹ For example, sons were frequently named after fathers or grandfathers, and daughters after mothers or grandmothers. There are even numerous examples of siblings having the same Christian names.

practical role. In an urban environment, they were usually someone of standing who would bring prestige to the family and they might be called upon in inquisitions to stand as testimony for the age of an heir when required.¹³⁰ Given the spiritual bond of care inherent in the vows made at the font, godparents would be a natural choice of testamentary guardian after a mother or other family member, but there is little firm evidence to support this. Amongst the many thousands of wardships sampled for this thesis, only one known godparent relationship appears in the Letter Books, and it is actually confirmation of a testamentary bequest. Cristina Mallyng bequeathed 'certain items' to her goddaughter (*filiola*) Cristina Blakelowe in 1432 and the city recorded that the goods were handed into the custody of the child's father.¹³¹ Similarly, in the husting and PCC wills, while there are numerous instances of godchildren being in receipt of money or other bequests, there are no determinable links between chosen guardians and godparents. Only one instance records a godmother having a goddaughter in her care: in her will enrolled in husting in 1282, Johanna le Waleys referred to her ward, Johanna de Pontefract (daughter of Geoffrey), as her goddaughter and made provision for her with an another, unknown, guardian.¹³² It can only be conjectured that godparents were brought into play for the thousands of unrecorded guardianships that existed in neighbourhoods and networks across the city, especially in times of high mortality.

What is known is that parents would have had to choose godparents for their children very carefully. The spiritual bond created between the families was such that widowers/widows

¹³⁰ Hanawalt, *Wealth of Widows*, 16

¹³¹ *CLBK*, 166

¹³² *CWCH* i. 60–1. Interestingly, Muller reports the same for her study of rural wardship, with only one godparent relationship determinable across her entire source base. Muller, *Childhood*, 133

could not go on to marry their children's godmothers/godfathers in the future.¹³³ The balance between prestige and prospect clearly had to be carefully calculated.

9.5 CONCLUSION

This chapter sought to answer the questions, why did London have a court of orphans and why did it maintain its rights so assiduously throughout the medieval period?

The answer, simply put, is that the fatherless children of their citizens *were* a valuable and useful commodity. The common law-derived seigneurial privilege of wardship that lay in the city's ancient rights underpinned political status, the financial aspects of orphans' inheritances brought significant economic and social benefit to the success of the city's citizens, both individually and collectively. Children, in terms of their very existence during the dark days of demographic disaster, provided hope for the future; they represented continuity and, both in their corporeal being and their boosted financial status at coming of age, provided valuable resource for developing guilds and companies. Even in terms of a spiritual legacy, the orphaned child brought value: the medieval layman was bound by his conscience and faith to act as much within his obligation to God and for the protection of his soul as he was for the safeguarding of his property, business and lineage. Protecting and providing for city orphans provided, in some measure, a means to achieve it all.

¹³³ J. H. Lynch, *Godparents and Kinship in Early Medieval Europe* (Princeton, 1986), 231–233

CONCLUSION

The evidence provided in this thesis has demonstrated that the practice of caring for orphans in medieval London warrants a wardship category of its own. It differs significantly both from its future, early modern self and from contemporary practice in feudal, manorial and other urban environments.

Although the appointment of guardians, rendering of accounts and the receipt of inheritance on coming of age or marriage may be found in earlier centuries, it does not follow that the practice around those customs was always the same. Carlton states that a thirteenth-century city clerk could be dropped two centuries later and, 'with, at most, a morning's instruction' could easily pick up orphan affairs. This is a gross underestimation of the change that took place between the thirteenth and the sixteenth centuries. It is clear, from the evidence drawn together in this thesis, that many changes occurred between the first surviving civic record in Letter Book A and those recorded by the time of the early years of the Reformation.

The late fifteenth-century or early sixteenth-century perspective on wardship was very different from that two centuries earlier: the time-travelling clerk would find himself tackling a bond system of financial indemnity rather than oaths and sureties; a law of *assumpsit*, evolved through centuries of merchant law, that worked very differently from that which had governed the transfer of land and property in the thirteenth century; a process of protection that administered a whole inheritance of orphan's portions and devised legacies rather than one which simply chronicled the transfer of property deeds. Moreover, the wealth inherent in those later inheritances was far beyond anything a thirteenth-century clerk might have been expected to administer. In fact, it is arguable that

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such a thirteenth-century clerk, dedicated to orphan matters, probably would not have existed before the expansion of civic bureaucracy in the fifteenth century.

The foundations of the civic institution of the court of orphans were laid in the medieval period. The time between 1250 and 1550 were years of building and shaping, during which the significant benefits of wardship to the city had to be realised, lessons born of mistakes had to be learned and the results of the demographic disaster of plague had to be evaluated. The refined civic institution that was the early modern court of orphans was born of experience, pain and learning, and of the developing authority of a city bureaucracy. By the sixteenth century, London wardship had changed to reflect different values from the thirteenth.

It has been difficult to draw comparisons with contemporary forms of wardship. In England, London was clearly the leader in the development of an urban approach to distilling common law socage principles into civic wardship rights. While other towns followed suit to some extent, with declarations in medieval charters or civic documents setting out the principle of city government wardship rights, there is, with the one exception of Bristol, little evidence of a developed approach to orphan matters elsewhere in English urban centres until the sixteenth century. Even then, none approached London in terms of establishment and intrinsic civic value.

The key enabler in London seems to have been the use of the husting court as a secular mechanism for proving wills, thus establishing an early means of interlinking common law property guardianship with civic authority, which, in conjunction with London's practice of *legitim*, then developed into an oversight of all inheritance as the derivation of wealth in the city evolved from property to cash capital. Only Bristol seems to have emulated this connection of management and oversight of testamentary guardianship with civic control. It

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is probable that London was influenced in this approach by similar practice on the continent, most specifically in Flanders, where clear comparisons in administrative practice can be detected. Even so, a lack of understanding of the development of Flemish wardship prohibits any comparison between the evolution of both urban models, or conclusions as to whether London copied the continent or vice versa.

London held lands in socage from the crown rather than in chivalry, and studies have shown that the same form of land holding was practised in rural manors in many parts of England. The legal tenets governing London's wardship principles might, therefore, be expected to be more similar to manorial wardship than to its feudal equivalent. It is hard, however, to draw comparisons with Muller's study of rural orphans. There are some similarities —in the concern for the well-being of all children in a family, and in the strong themes of communal and family (and particularly female) care. But there the resemblance ends.

The significant distinctions between rural wardship and its counterpart in London are threefold: the custom of *legitim* for moveable estates, the practice of burgage tenure, and, perhaps most significantly, the abundance of non-landed, moveable wealth. The first distinction made London inheritances entirely partible and protected. The second, while taking the widow's dower into account where applicable, allowed the free disposition of real estate to whomever the testator wished. Combined, these two contributed to the third, wealth, which enabled opportunity for growth at an individual and at a collective, city, level. The two legal practices of *legitim* and burgage tenure underpinned the earliest functioning wardship process in the city and, with the almost exactly equal split between male and female heirs, supported the propagation of horizontal, non-kin patterns of inheritance as widows and orphans moved into new family structures. However as, property transactions

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gave way to the management of whole inheritances, the focus of London wardship systems shifted from real estate to moveable wealth.

It is the importance of wealth that made orphan practices in the later medieval city of London wholly different from comparative models. It is for that purpose that wardship in this study has not been presented from the point of view of the common law, or from that of royal and seigneurial lordship, for whom wardship presented lucrative, non-fiduciary benefits.¹ Nor has this thesis focussed on the agency of the orphan or heir, as presented in Muller's study. Rather, it has been presented from the perspective of a city. And the reason for this approach is that key benefit of wealth: collective wealth. Not just that derived from land or real estate, but, certainly by the end of the fourteenth century, hard cash, consisting of capital and profit and credit. Inheritable wealth that was not just divisible but divided as a legal entitlement between all children of a London citizen, and which was circulated back into the city.

Sheridan Walker made the points that feudal wardships were seigneurial, non-fiduciary and lucrative while socage guardianships were familial (in the principle of law), fiduciary and could often place an onerous burden on the guardian. This thesis has demonstrated that guardianship in London *was* fiduciary, but the benefits went three ways: to the heir, to the guardian, but also, collectively and over time, to the city itself. The development of orphanage procedure in London may have evolved from legal prerogative and customary practice, but it thrived because of the adaptive policies of the city during a time when the opportunity, and the wealth, at large in the city after the demographic and economic disaster of the Black Death was at its most fertile. London chose to keep the practice of *legitim* alive because it suited the city's economic needs; London government appears to

¹ Sheridan Walker, 'Feudal Family', 14

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have woken up to the possibilities presented by these customs and legal principles as the city shook itself out of the post-plague demographic and political upheaval. Then, when Henry VIII's break with Rome brought the governance over ecclesiastical courts under the crown rather than the papacy, the city seized the opportunity to take control of all city orphans to its own communal advantage.

However, it must be noted, that none of this was done without care, the consideration of charity and some level of philanthropy. Wardship contributed significantly to the ideal of common profit, in both the physical and the spiritual sense: it served a common purpose of tending to the needs of individual citizens, while serving the interests of the city as a whole. It is to London's merit that this ideal of common profit was incorporated in the city's developing approach to its wardship rights. There was real democracy in the process: children were valued as well as their inheritances; unlike their rural counterparts, they were given rights within the term of their wardship; the procedures which encapsulated those rights, and the city officers who administered them, were answerable to the commonalty and, under oaths, to God. This fairmindedness reaped tremendous benefits for the collective and, by the sixteenth century, the city itself was publicly acknowledging that the development of mercantile credit inherent in its wardship practice, was critical to the generation of trade and civic prosperity.²

The unique wardship practice in London over the fourteenth and fifteenth centuries was a strong contributory factor to the late medieval non-patrilineal distribution of wealth in the city and, as a consequence, built the foundations of that thriving phenomenon of financial and social capital, known beyond the sixteenth century as 'the Court of Orphans', that was an important mainstay of London's communal life in the early modern period.

² COL/AD/01/015 (Letter Book P), 80v. Carlton, 45

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